

MARCH 1, 2005

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 1, 2005 LB 51, 311

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: Good morning. Welcome to the George W. Norris Legislative Chamber. Our acting chaplain this morning is Senator Byars from the 30th District. Senator Byars.

SENATOR BYARS: (Prayer offered.)

SENATOR CUDABACK: Thank you, Senator Byars, for acting as our chaplain of the day. We appreciate it. I call the thirty-sixth day of the Ninety-Ninth Legislature, First Session, to order. Senators, please check in. Record please, Mr. Clerk.

CLERK: I have a quorum present, Mr. President.

SENATOR CUDABACK: Are there any corrections for the Journal?

CLERK: No corrections, Mr. President.

SENATOR CUDABACK: Any reports, announcements, or messages?

CLERK: Mr. President, Enrollment and Review reports LB 51 as correctly engrossed. Revenue Committee, chaired by Senator Landis, reports LB 311 as indefinitely postponed. That's all that I have at this time, Mr. President. (Legislative Journal page 639.)

SENATOR CUDABACK: Thank you, Mr. Clerk. Our first agenda item is legislative confirmation reports. Mr. Clerk.

CLERK: Mr. President, Agriculture Committee reports on the appointment of Tamas R. Allan to the Nebraska State Fair Board. (Legislative Journal page 607.)

SENATOR CUDABACK: Thank you. Senator Erdman, as Vice Chairman of the committee, you're recognized to open on the first report.

SENATOR ERDMAN: Thank you, Mr. President. Members of the Legislature, it's my honor to present Tamas Allan as a nominee for the State Fair Board. The Agriculture Committee reported favorably upon his appointment. Tam is a native of Lincoln and

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 1, 2005

self-professed lover of the State Fair. He's a graduate of the University of Nebraska-Lincoln, 1977; graduated from the University of Nebraska Law School in 1980. He's the owner and president of Village Development and Capitol Development. He's a member of the Nebraska State Bar, Nebraska State Bar Foundation, and past member of the First Plymouth Church Board of Trustees, and the past chairman of the Lincoln Midwest Ballet, and member of the NEBRASKALand Foundation. Confirmation hearing was held February 22. Mr. Allan appeared in person, answered the questions of the committee. Mr. Allan's commitment to the State Fair is evident. He's been involved in current planning for meeting the local match of lottery funds that the voters approved for the Fair. Mr. Allan is a new appointment. He'll replace Jo Kinsey, who retired after one term to pursue career opportunities in another state. Mr. Allan assumes one of two memberships on the State Fair Board to represent the business community of Lincoln. He was appointed by the Governor in December to a three-year term, and will be eligible for reappointment to two additional three-year terms. The committee advanced his nomination 8 to 0, and I would request your support for the appointment of Tamas Allan to the State Fair Board. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Erdman. You've heard the opening on the confirmation report by the Agriculture Committee. Open for discussion on that report. Senator Erdman, there...he waives his opportunity to close. The question before the body is, shall the confirmation report offered by the Agriculture Committee be adopted? All in favor vote aye; opposed, nay. Have you all voted on the confirmation report who care to? Record please, Mr. Clerk.

CLERK: (Record vote, Legislative Journal page 640.) 31 ayes, 0 nays, Mr. President, on the adoption of the confirmation report.

SENATOR CUDABACK: Thank you, Mr. Clerk. Mr. Clerk, next report.

CLERK: Mr. President, the Health and Human Services Committee has several reports. The first involves a series of

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 1, 2005

appointments to the Board of Emergency Medical Services.
(Legislative Journal page 626.)

SENATOR CUDABACK: Senator Jensen, Chairman of the Health and Human Services Committee, you're recognized to open on the first report.

SENATOR JENSEN: Thank you, Senator Cudaback, members of the Legislature. And if you'll bear with me, last Thursday we did set aside an afternoon to go through gubernatorial appointments and so there are five of these boards that the confirmation report came to us and we acted on and I'm presenting to you this morning. The first one that I'll present to you is the Board of Emergency Medical Services, and we have six names, three new appointments, three reappointments. The first is Shawn Baumgartner, who is a reappointment for a three-year term from Scottsbluff. He is employed by the Valley Ambulance Service in Scottsbluff as an operations assistant and senior paramedic. He's been serving as an EMT since 1984. He was unable to appear in person, but Senator Smith appeared in support of his confirmation. The next is Robert Dunn, a reappointment for a three-year term. He's a retired photographer here from Lincoln. I think many of you probably know him; actually born in Falls City; a graduate of Falls City High School and the University of Nebraska at Lincoln with a master's degree in special education; also a veteran of the Marine Corps. Number three is Rommie Hughes, who's an M.D., a new appointment for a two-year term; a physician and surgeon from Scottsbluff. Unable to appear in person, Senator Erdman appeared in support of his confirmation. He's a graduate of the University of Nebraska-Lincoln and the University of Nebraska Medical Center. Number four is Benjamin Lans, who is a new appointment for a three-year term; will be a senior at Chadron State College, majoring in business administration, marketing economics; serves with the Chadron Volunteer Fire Department; has a history of family involvement in emergency medical services; received his EMT-B license; and also was unable to appear in person, but Senator Loudon appeared in support for his confirmation. Fifth was Clinton Rasmussen, a new appointment for a three-year term from Dakota City, employed as a fuel-handling technician with MidAmerican Energy in Sioux City; joined the Dakota City Fire Department in 1999, where he

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 1, 2005

is on the board of directors, also a fire captain and a first responder. Last is Dr. Michael Westcott, a reappointment to a three-year term from Papillion; an emergency physician with Alegent Midlands Community Hospital in Papillion since 1984; graduate of the University of Nebraska Med Center. Mr. President, I would urge the confirmation of these individuals for the Board of Emergency Medical Services.

SENATOR CUDABACK: Thank you, Senator Jensen. You've heard the opening on the first report offered by the Health and Human Services. Open for discussion on that report. There are no lights on, Senator Jensen. He waives closing. The question before the body is adoption of the first report offered by the Health and Human Services Committee. All in favor vote aye; opposed, nay. Record please, Mr. Clerk.

CLERK: (Record vote, Legislative Journal pages 640-641.)
32 ayes, 0 nays, Mr. President, on the adoption of the confirmation report.

SENATOR CUDABACK: The report has been adopted. Mr. Clerk, second report.

CLERK: Mr. President, the second report from Health and Human Services involves two appointments to the Child Abuse Prevention Fund Board. (Legislative Journal page 626.)

SENATOR CUDABACK: Senator Jensen, as Chair of the committee, you're recognized to open on the second report.

SENATOR JENSEN: Thank you, Mr. President. The Child Abuse Prevention Fund Board has two names. Kevin Benesch, a new appointment for a three-year term; unable to appear in person, Senator Schimek provided testimony in his support and for his confirmation. He's a licensed psychologist with the Child Guidance Center here in Lincoln since 1986; actually born in Schuyler. The next is Peter Tulipana, who I'm sure many of you know from Omaha; a reappointment for a three-year term. Unable to appear in person, Senator Brashear's staff offered testimony in his support and confirmation. He's the executive director of Family Services in Omaha since 1987. I would ask for the

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 1, 2005

confirmation of these two individuals to the Child Abuse Prevention Fund Board.

SENATOR CUDABACK: Thank you, Senator Jensen. You've heard the opening on the second report by the Health and Human Services Committee. Open for discussion. Seeing no lights on, Senator Jensen waives. The question before the body is adoption of the second report by the Health and Human Services Committee. All in favor of the report vote aye; opposed, nay. Have you all voted on the second report who would care to? Record please, Mr. Clerk.

CLERK: (Record vote, Legislative Journal page 641.) 30 ayes, 0 nays, Mr. President, on the adoption of the confirmation report.

SENATOR CUDABACK: The confirmation report has been adopted. Mr. Clerk, third report, please.

CLERK: Third report, Mr. President, offered by Health and Human Services, involves three appointments to the Foster Care Review Board. (Legislative Journal page 627.)

SENATOR CUDABACK: Senator Jensen, to open on the third report.

SENATOR JENSEN: Thank you, Mr. President. The Health and Human Services Committee desires to report favorably upon the following three appointments to the Foster Care Review Board. The first is James Gordon, a new appointee for a three-year term, an attorney here in Lincoln, graduate of the University of Nebraska College of Law, a long-time community volunteer, son of Sally Gordon, whom I'm sure you all know. The next is John Seyfarth, who is a new appointment to a two-year term, a librarian from Papillion, member of the local foster care review board, a former commissioned officer in the United States Air Force. The third is Gerald Schenck, a new appointment for a three-year term. Unable to appear in person, Senator Kremer appeared in his support and confirmation. He's a retired state trooper from Grand Island; born in St. Paul, Nebraska; member of the local foster care review board since 1989, and an area board chairman. I would ask that those three names be confirmed to

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 1, 2005

the Foster Care Review Board.

SENATOR CUDABACK: Thank you, Senator Jensen. You've heard the opening on the third report by the Health and Human Services Committee. Open for discussion on that report. Seeing no lights on, Senator Jensen. He waives closing. The question before the body is adoption of the third report offered by the Health and Human Services Committee. All in favor vote aye; opposed, nay. Have you all voted on the report who care to? Record please, Mr. Clerk.

CLERK: (Record vote, Legislative Journal page 642.) 29 ayes, 0 nays, Mr. President, on the adoption of the confirmation report.

SENATOR CUDABACK: Report is adopted. Mr. Clerk, fourth report.

CLERK: Mr. President, a fourth report by Health and Human Services Committee involves three appointments to the Rural Health Advisory Commission. (Legislative Journal page 627.)

SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Jensen, to open on the fourth report by the Health and Human Services Committee.

SENATOR JENSEN: Thank you, Mr. President. We have four names, three new appointments, one reappointment. The Health and Human Services Committee desires to report favorably upon the following three appointments to the Rural Health Advisory Commission...excuse me, to four appointments. First is William Brush, M.D., a new appointment for a three-year term, president of MORMAC Corporation in North Loup. He has a medical degree from the University of Nebraska Medical Center. Next is Pamela List, a reappointment for a three-year term. She is a nurse practitioner from Beemer, unable to appear in person, but Senator Connealy provided testimony in support of her confirmation; employed by the Franciscan Care Services in West Point since 1989; currently enrolled in a post-master's program for psychiatric mental health nursing at UNMC. Third is Michele Mulligan-Witt, M.D., a new appointment to a three-year term; a family physician from Valentine, a native of Valentine, a

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 1, 2005

LR 43, 44, 45

graduate of Valentine High School, the University of Nebraska School of Medicine...or College of Medicine. Unable to appear in person, Senator Fischer appeared in her support of her confirmation. We did happen to meet Michele Mulligan-Witt when we, the Health Committee, toured Valentine area this last fall. The fourth is Martin Fattig, a new appointment for a three-year term; chief administrator...administrative officer at the Nemaha County Hospital in Auburn since 2002; actually born in Arnold, Nebraska. I would ask for confirmation of these four individuals to the Rural Health Advisory Commission. (Confirmation of Martin Fattig, Legislative Journal pages 697-698.)

SENATOR CUDABACK: Thank you, Senator Jensen. Open for discussion on adoption of the fourth report. Senator Fischer.

SENATOR FISCHER: Thank you, Mr. President. Members of the body, it's my pleasure to stand in support of Dr. Michele Mulligan-Witt's appointment to this commission. As was stated by Senator Jensen, Dr. Mulligan-Witt is a native of Valentine and, after graduating from medical school, she has returned to our community. She provides wonderful healthcare, which we need in rural Nebraska, and she is also an active member of our community, so I'm very proud and happy to offer my support for her confirmation. Thank you.

SPEAKER BRASHEAR PRESIDING

SPEAKER BRASHEAR: Thank you, Senator Fischer. Is there any further discussion to the confirmation report? Hearing none, we'll proceed to the question. All those in favor signify by voting aye; those opposed, nay. Record please, Mr. Clerk.

CLERK: (Record vote, Legislative Journal pages 642-643.)
30 ayes, 0 nays, Mr. President, on the adoption of the confirmation report.

SPEAKER BRASHEAR: While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR 43, LR 44, and LR 45. Thank you. Mr. Clerk.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 1, 2005

CLERK: Mr. President, the fifth and final report from Health and Human Services Committee for today involves five appointments to the State Board of Health. (Legislative Journal page 627.)

SPEAKER BRASHEAR: Senator Jensen, as Chairman of the Health and Human Services Committee, to open, please.

SENATOR JENSEN: Thank you, Mr. Speaker. Members of the Legislature, this is the final report; five names, three new appointments, two reappointments to the State Board of Health. The first is Sam Augustine, a reappointment for a five-year term, a pharmacist, Doctor of Pharmacy degree from the University of Nebraska Medical College; a pharmacy professor at UNMC College of Pharmacy, College of Medicine; a nuclear pharmacist, as a matter of fact, a board-certified nuclear pharmacist for 25 years at the Med Center. The second is Dr. Edward Discoe, who is a new appointment for a five-year term, a physician from Columbus, actually born in Ogallala, a graduate of Paxton Consolidated School, the University of Nebraska-Lincoln and the University of Nebraska Medical Center. The third is Linda Lazure, a reappointment for a five-year term; first appointed in 1997 to fill an unexpired term. She is currently the associate dean of nursing at Creighton University School of Nursing, born in Atlantic, Iowa. The fourth is Paul Salansky, a new appointment to a four-year term, an optometrist from Nebraska City since 1987; unable to appear in person, Senator Wehrbein appeared in support of his confirmation; born in Washington, Pennsylvania; graduated from the Illinois College of Optometry in Chicago in 1977. And last is Gary Westerman, a new appointment to a five-year term; unable to appear in person, he is a constituent and I appeared in support of his confirmation. He's a pediatric dentist, professor of Creighton University since 1973; born in Spokane, Washington; graduated from the University of Nebraska School of Dentistry in 1969. Mr. President, I would ask for the confirmation of these individuals to the State Board of Health.

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: Thank you, Senator Jensen. You've heard the

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 1, 2005

LR 8, 47

opening on the fifth report, offered by the Health and Human Services Committee. Open for discussion on that report. Seeing no lights on, Senator Jensen. He waives closing. The question before the body is adoption of the fifth report offered by the Health and Human Services Committee. All in favor vote aye; opposed, nay. We're voting on the fifth report offered by the Health and Human Services Committee. Have you all voted on the fifth report who wish to? Record please, Mr. Clerk.

CLERK: (Record vote, Legislative Journal pages 643-644.)
27 ayes, 0 nays, Mr. President, on the adoption of the confirmation report.

SENATOR CUDABACK: The confirmation report has been adopted. Mr. Clerk, items?

CLERK: Mr. President, I have one new item, a new resolution by Senator Combs, LR 47. That will be laid over. That's all that I have, Mr. President. (Legislative Journal page 644.)

SENATOR CUDABACK: Thank you, Mr. Clerk. We now go to General File. Mr. Clerk, LR 8CA.

CLERK: Mr. President, LR 8CA was a constitutional amendment originally introduced by Senator Schrock and others. It would propose an amendment to Article I, Section 28, of the Nebraska Constitution. Resolution was discussed yesterday. At that time, an amendment by Senator Chambers was adopted. I have pending, Mr. President, a motion to reconsider that vote on that amendment. Senator Chambers, your motion is to reconsider the vote on FA32.

SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Schrock, would you like to give us a quick review of what is contained in LR 8CA?

SENATOR SCHROCK: Mr. President, members of the Legislature, if I can have your attention for a minute, I would appreciate that. I'm a farm boy. I was educated in a one-room schoolhouse. I'm gullible, I'm naive, and some people think I just fell off the turnip truck. But the people of my legislative district sent me

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 1, 2005

LR 8

down here to serve you and, thanks to you, you have elected me Chairman of the Natural Resources Committee. For that, I am very grateful. When a group like the Sportsmen's Foundation brings me an issue like this, and you have a list of some of the minor members...this doesn't include Pheasants Forever, Ducks Unlimited, Trout Unlimited, White Tails Forever, it doesn't include...when they bring something like this to me, and I can see in neighboring states, with the same demographics we have, that it passes by 80 percent...and my good friend Mike Friend, who is on my side and I appreciate that, says, where's the passion? I'm as passionate as I can be this morning. Take your choice, folks. Are we going to put this on the ballot? Now, you say, where's the urgency, where's the need? Well, you know, the big bad wolf is going to show up sometime. I don't know when. But is our house going to be built out of straw, or is it going to be built out of bricks? If we pass this, then I think the sportsmen of the state will have a house built out of bricks. Now, I don't know if there's 33 votes here, but don't ask me where the passion is. I'm for this. The people of Nebraska are for it. And you would deny putting it on the ballot when it's going to pass by 80 percent? I don't think that's why I was elected to come down here, to say, no, we don't want to do that; you don't know anything; we want to keep the constitution pure. Well, the constitution has things in it like marriage and gambling and, yes, it even has term limits. I think this is appropriate. I think this is what the people want. And are we listening to the people? Now, I'm a little disappointed there isn't a little more support out there. I don't know what you're hearing, but I'll tell you what. I'm going to a Pheasants Forever banquet this weekend in Holdrege and they'll be passionate about it. I went up to the sportsmen show in Omaha last week and there was a crowded parking lot and you couldn't talk to the outfitters talking about fishing and hunting trips and all the equipment that was there. You could buy fishing rods. You could buy campers. You could buy boats worth \$100,000. And there's people on this list from Omaha and Lincoln. You've got a choice to take. I want to know where you stand on this. And then I think we should be accountable to the people that elected us. You can call this frivolous if you want. To me, it isn't. I have seen things take place since I've been here. I want to talk about the prairie dog. When I

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 1, 2005 LR 8

came here in 1991, it was a law that you had to eradicate prairie dogs on your place. Senator Crosby brought a bill to us that said they no longer have to be controlled. I voted for it. It made sense. Now we have the federal government telling us that they are, not an endangered species, but a threatened species and all you have to do is go to western Nebraska to get a rancher fired up. Quite frankly, the saving grace for the prairie dog is that they're cute. They're a rodent like a rat. If they looked like a rat, nobody would care, but they're cute and they make this little barking noise. Lewis and Clark first discovered them on their trip west and they heard this barking, and that's where they got the name prairie dog. They were named on the Lewis and Clark Expedition. I don't hate the prairie dog. My son tells me that we have an infestation on our pasture now where we had eradicated them ten years ago. They stayed away ten years and now they're back.

SENATOR CUDABACK: One minute.

SENATOR SCHROCK: And now we have to decide, do we control them now? Do we let them wait a year or two so friends of ours and some of my family members can do a little target shooting? (Laugh) And, you know, we have that decision to make. But I know this much. If they're on 2 acres now and we wait, a year from now they'll be on 20 acres, and if wait another two or three years, they'll be on 200 acres. What's that got to do with this? Draw your judgment. But I would say this. I would like to have our rights to hunt and fish protected by a brick house, not by a house of straw, and I think we've got a house of straw now. Nobody sees the urgency in it. You know, choose your...choose how you're going to vote. This is what I'm going to do, and I'm going to pursue it as long as I'm in the Legislature, and I think the Sportsmen Foundation will pursue it also. And I have a resolution here...

SENATOR CUDABACK: Time.

SENATOR SCHROCK: ...from the Game and Parks Commission.

SENATOR CUDABACK: Thank you, Senator Schrock. Senator Chambers, on your reconsideration motion. You're recognized to

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 1, 2005

LR 8

Speak on your reconsideration motion.

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I listened very carefully to Senator Edward Schrock, Edward the first, since I've been in the Legislature. And I'm not swayed. I can think of any number of things which, if you gave to the people, they would vote to put into the constitution. I'm just going to read something, and you may not follow it because the way they constructed sentences in the old days makes it a little difficult on occasion to see exactly what they're talking about, but this would relate to the qualification of judges. If federal judges were regarded not as unlettered local magistrates but as professionally qualified officials, appointed because they unite the requisite integrity with the requisite knowledge of the laws, they should need far less recourse to a bill of rights than the people at large who would forget their rights if they were not publicly proclaimed. The point that I would emphasize is the notion of knowledge, professional training and understanding, not like a local magistrate. There are any number of people in groups who have cockeyed, lamebrain notions of what the constitution says and what the laws are. I don't know where they get some of this stuff, but they send it to me and they're totally off the beam. Senator Schrock could show me a list of names on enough sheets of paper to make a pile as thick as the Omaha telephone book, white and yellow pages, and I would not be swayed. If you take an ignorant position and multiply the 1 ignoramus who holds it by 15,000 who hold it, it is no less ignorant. That merely manifests the principle that ignorance multiplies itself more rapidly than does wisdom. These people who signed this piece of paper don't know anything about the constitution. Our job is not to reflect ignorance. Our job, if we're going to accept the notion that elected officials are leaders of some kind, is to show enlightenment. We are to teach the public. We have the opportunity to get information and inform our judgment, and we should behave as people whose judgment has been informed. Constitutional rights, constitutional provisions should not be a matter of a popularity contest or an opinion poll. That is how the shallow, superficial mind-set of people in America is viewed by the ad makers on Madison Avenue. Why do you think the advertisements are so brainless, so tasteless, so vulgar, so

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 1, 2005

LR 8

unenlightening, such downers and never uplifting? Because they have put their finger on the pulse of the American public and they know where the American public mind is and they appeal to it. That's why the products they advertise sell when they use those vulgar advertisements.

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: When I say "vulgar" now I'm not talking about profanity. I'm not talking about obscenity. I'm talking about that which lacks class and taste. I'm not going to allow the constitution of this state, a state which hates me, which has contempt for me, I'm not going to allow the constitution of this state to be vulgarized and trivialized. I'm not angry at Senator Schrock because he's carrying water for the anglers, the trappers, and the hunters, but I have a higher calling than that as a member of this Legislature and I'm going to carry it out by trying to stop everything that I think would degrade the constitution. For the information of Senator Schrock and others, I have tried to eliminate from the constitution some of those things that are there which I think are there inappropriately. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. Senator Friend, on the motion to reconsider.

SENATOR FRIEND: Thank you, Mr. President. Members of the Legislature, Sir...Senator "Sir" Edward Schrock, that was...that's passion. Okay? I like it. Now, he didn't do it for me, I know that. He did it because there were...there are eight people in his committee. He, in a lot...in some ways with a velvet hand, velvet hammer, whatever, runs that committee. I was on that committee and he runs it pretty efficiently. He does a good job. And seven people on that committee voted to move this out to the floor. One was absent. I think that will be addressed probably here in a little bit. But the bottom line, to me, is that clearly this is worthy of discussion, clearly this is worthy of debate. Is it worthy of 37, 36 amendments on here to scuttle it? Possibly. I'm not even going to say that Senator Chambers is wrong in his convictions. As a matter of fact, I had mentioned yesterday on the record that a

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 1, 2005

LR 8

lot of what I sit out here and everybody else sits out here and listens to from Senator Chambers can be quite persuasive. But let me tell you this, some key points to clarify what I said...what I was talking about yesterday while I was trying to kill the clock before "Captain Lunch-Hunter" came. I'm "yes" on cloture here when it comes about. I'm "yes" on LR 8CA. I admire the work that Senator Schrock does and the Natural Resources Committee, and a lot of folks in this body that believe in this amendment, I admire your support of it as well. I also obviously admire some of the work that Senator Chambers does. But the fact is, for me, that I wanted to see how important this was to everybody. I grew up hunting and fishing. I've never trapped, but I'm starting to think that I'd like to. (Laugh) What I would say is that if we're going to spend X amount of time on this, and clearly we can, I agree with Senator Schrock, let's find out how much people care about this. I think we've heard a little bit of it, but what this is going to force and what this debate is going to cause is people making a decision as to how they feel about this and how important it is to them. Now, what I would say is this: The problem in our state, it may not be there yet. Senator Chambers might have a really good point. But here's what I'm passionate about. I don't want organizations like PETA giving us the runaround. And if something like this can prevent that, yeah, you bet I'm for it and you bet I'm passionate about it. I don't like that idea, okay? So let's get that on the record right now. Two years from now, if I hear that type of thing happening and I happen to be gone, I'm going to pull my hair out. I don't like it, and that's why I agree with what Senator Schrock is doing, that's why I agree with what the Natural Resources Committee is doing, and that's why I wanted to see some passion. I think I found it. Senator Chambers, he doesn't need coaxing. He can find passion in stuff that nobody else finds passion in. Well, let's start making decisions right now about this because, like I said yesterday, it could be something later on that's important to you. All someone would have to do is toss 37 amendments up...

SENATOR CUDABACK: One minute.

SENATOR FRIEND: ...on the Chamber Viewer to force your hand. Let's debate about it. Let's talk about it. I don't think it's

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 1, 2005 LR 8

ignorant. I don't think it's stupid to have statements like this in the constitution. Maybe I'm stupid. I'm sure Senator Chambers will (laugh) address that. But let's discuss it. Let's talk about it. I don't want to wait until organizations come in here and force people to do things in this state that they don't want to do. That's all I'd have, Mr. President. Thank you.

SENATOR CUDABACK: Thank you, Senator Friend. Before we go on, the pastries that you received earlier are for Senator Fischer's birthday, so let's welcome...or let's congratulate her on her birthday and wish her many more. On with discussion of the reconsideration motion. Senator Smith, followed by Senator Chambers.

SENATOR SMITH: Thank you, Mr. President and members. Perhaps my remarks will not contain the passion of Senator Friend, but I do hope that I can contribute somewhat to the discussion. I have to say that when this constitutional amendment was originally proposed I did look at it with some skepticism on the necessity. As I've observed the extremism in defense of certain narrow issues, not in the defense of liberty, as Barry Goldwater once stated, but extremism in the defense of some narrow environmental agendas and various court decisions over the years, the last few years more specifically, I see not only the desire to have LR 8CA pass, but I think the genuine need. My thoughts were codified yesterday when I received a letter from a judge, a current judge, taking four and a half pages to dispute a law that we have on the books, and close with the sentence: But while I know the judiciary should strive to adhere to scrupulous standards of fairness and uniformity, my lingering doubts will continue to tell me that that probably is not possible relating to this issue. I know it's a different issue, but any time a member of the judiciary says that it's not possible to be fair and uniform according to the statutes of the state, I have lingering doubts as to how much authority we should delegate to the judiciary. Therefore, when we can be more specific in a general sense, we're not legislating through LR 8CA. We are proposing in concept form that these are areas of public policy that need to be protected. I've attended various political conventions and otherwise and I've seen these

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 1, 2005

LR 8

protestors, and actually they're quite entertaining. They do provide an element of humor to various meetings, but I know their intent. I've observed the prairie dog issue and I thank the ranchers across the state for standing up and saying enough is enough, in terms of protecting the "rats," as Senator Schrock very appropriately pointed out. And I appreciate Senator Louden's efforts on the prairie dog issue this year. I think that too many times we let the bureaucrats intimidate us into various public policies, and especially as it relates to, I think, a very extreme environmental agenda. This is my first session on the Natural Resources Committee and I find it quite interesting, sometimes a bit overwhelming with the various issues that we have to face, but I see some of the very narrow agendas that come in. In fact, one of the most entertaining thing is how folks who generally live in a Lincoln zip code know what's best for the prairie in central Nebraska, in the Sandhills, and how some folks in Lincoln want to dictate the number of prairie dogs on someone else's property, not their property, someone else's property, and I consider that to be an extreme, narrow environmental agenda, and I think that LR 8CA seeks to...

SENATOR CUDABACK: One minute.

SENATOR SMITH: ...and will very appropriately provide a prevention to the many attacks that are leveled constantly against a very legitimate part of Nebraska, that being fishing, hunting, and trapping. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Smith. Senator Chambers.

SENATOR CHAMBERS: Mr. President, members of the Legislature, first, I want to acknowledge a great friend of mine that Senator Schrock referred to. (Howls) That's the big bad wolf. I assure you all, he has no intent of coming to Nebraska and blowing down the farmers' houses and gobbling them up. I assure Senator Smith that there are not all these radical, extremist environmentalists hiding under beds, waiting to jump out and turn Nebraska into a place where the air is fresh, where the waters are clean, and where the pollution caused by huge feedlots will be done away with. That's not going to happen,

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 1, 2005

LR 8

Senator Smith. As for those people of narrow focus, narrow scope, lack of intellectual depth, who think that in a state which is not 1,000 miles from one side to the other, people within that state cannot have an opinion as to what is best in terms of what happens in another part of the state, that kind of attitude is misplaced. There are people who can read. Reading does broaden and expand our scope. I have never been to China, but I believe there is a China. Asia is the largest continent. I've never set foot on any part of the Asian continent, but I believe it's there. I have never seen the earth as a globe, but I believe it is globular. I do not believe it is flat. As for Senator Friend praising Senator Schrock because he got this piece of rubbish out here, well, he's the Chairman of the committee. If Senator Schrock, as the Chairman of the committee, can't get a bill out of his own committee, why, what kind of Chairman is he? And some people on the committee had confidence that I would do the work on the floor that they should have done in the committee. That's why I work so hard. I am the one who will be considered the last true hope of the public. Many people on this floor sit back because they know that I will carry the fight and I will carry the day, but I'm going to be here for 90 days and it's difficult for me to be idle. The devil is always busy and the devil is happiest when he is busy. And the devil has more people coming to him than the other side has. You don't have to pass laws to stop people from going to church. You got to pass laws to stop them from buying certain literature, to stop them from consuming certain substances, from using other substances that grow out of the ground which are considered the devil's weed, the devil's brew, the devil's literature. So the devil is a heck of a cat. As I listen to the debate on this bill, I feel sorry for my rural colleagues that they are so fearful, so frightened. I think PETA, the People for Ethical Treatment of Animals, would be flattered and amused at how these rubes in Nebraska think they have such overwhelming power that they can turn a backwards state like Nebraska around and put it on the path to progressiveness. PETA is not going to do anything. That is a word used by demagogic politicians to frighten and terrorize unlettered constituents of theirs who trust them, and because they trust them, they're worthy of something better.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 1, 2005 LR 8

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: Neither Senator Schrock nor Senator Smith can prove any of the power that they want to attribute to PETA actually exists. I'd like to ask Senator Smith a question. Senator Smith,...

SENATOR SMITH: (Microphone malfunction) Yes.

SENATOR CHAMBERS: ...would you yield to a question?

SENATOR CUDABACK: Senator Smith, would you yield?

SENATOR SMITH: Yes.

SENATOR CHAMBERS: Senator Smith, when Senator...former Senator Bruning was here and he began to comment on a lot of issues and change his position, it was because he was running for the Attorney Generalship. Are you planning to run for Congress?

SENATOR SMITH: I currently cannot answer that, Senator Chambers.

SENATOR CHAMBERS: Current...ah, you answer...

SENATOR SMITH: (Inaudible) file for office yet.

SENATOR CHAMBERS: When a politician says "currently," that means emphatically, enthusiastically, beyond a doubt, yes, he's running for Congress. You'll notice it as the session goes on. I deal with the truth and I call it like I see it. Everybody else knows it, but they're afraid. You need to follow me on this. I'm right and you know it. Not rightist;...

SENATOR CUDABACK: Time.

SENATOR CHAMBERS: ...right in the sense of correct and accurate. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. Senator Combs. I'm sorry, Senator Combs, the...our Clerk wants to make an

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 1, 2005

LR 8

announcement. He may do so. Mr. Clerk.

CLERK: Pardon me, Senator. Mr. President, Transportation, Telecommunications Committee will hold an Executive Session at 10:00 in Room 2022.

SENATOR CUDABACK: I'm sorry, Senator Combs, for the interruption. You may proceed.

SENATOR COMBS: No problem. Thank you, Mr. President and members of the body. I really...I went over and told Senator Chambers this morning, I really do respect his ardor at defending the constitution and I cannot begin to even be as...10 percent as versed as he is in what's in it and what should be in it and what should not be in it, and I do appreciate his ardor at defending his belief. I still believe in the right to hunt, fish, and trap, and I think it might be a little naive to suggest that no one would ever come here, to a state like Nebraska, and try to take that right away from us. I was looking at a sheet that was distributed by "Sir" Edward Schrock and trying to pick out some states that were in close proximity because, as we know, the coasts, the far east and the far west, tend to be more to the extremes perhaps than those of us in the Midwest are. But I did see where Colorado in here, just in 1996, they had a successful petition brought forth to ban all trapping, and Colorado is our next-door neighbor. So it's not so far-fetched to think that the possibility exists that someone could come here and do the same thing. I mentioned yesterday, and it drew some attention in some public media, but I did talk about eating animals and killing animals and using their fur for clothing and so forth, and utilizing all parts of the animal. I would like to also mention that there are people that do trap for a living. If you remember, some of you trappers who might be listening, raccoons were worth maybe, what, 40, 50 bucks here about 15-20 years ago. Raccoons were a significant source of income for farmers during a time when farming was going through a bad time and was heading down, on a downturn economically. Some farmers did supplement their farming income through trapping, and raccoons were a good source of income for people who needed an extra income. So trapping does serve a beneficial purpose here in Nebraska. It is not

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 1, 2005

LR 8

just simply for sport. And again, it's as I spoke of yesterday with the value outside of the sporting arena for hunting, trapping, and fishing, but again, now it is a way for people to make a living. There are also people who fish. I know some people that ice fish and do a lot of fishing. They do fish for sport and then they also sell that fish to other people, because when we've had fish fries I've bought fish from a couple of fishermen who fish and keep it just for that reason. So there are people who make significant efforts to support themselves through hunting, trapping, and fishing, and should there ever come a ban, be it through the petition process or through legislation or through a judicial decision or through an executive order, that would be severely, disparately impacted by the passage of such a ban. Again, I do believe in what Senator Schrock has brought. I will be supporting it with my vote. Some of Senator Chambers' amendments I will be supporting; others I will not be able to support. But again, I do recognize his ardor in defense of the constitution, and I also recognize the will of the body. If there is a majority of people who do want this, that agree with my position, then they...

SENATOR CUDABACK: One minute.

SENATOR COMBS: ...may prevail. Thank you, and I would give the rest of my time to Senator Schrock, if he would like to have it.

SENATOR CUDABACK: Senator Schrock, you have about 52 seconds.

SENATOR SCHROCK: Thank you, Senator Combs. You know, I learned as a child that an ounce of prevention is worth a pound of cure. I did talk about the brick house. I do want our state to have a brick house when it comes to protecting some of our rights. And so, Senator Combs, I thank you for your support. And, Senator Chambers, I wished I could change your mind on some of these issues. But, you know, we've got to do what we've got to do. You've got to do it. When I was young, I learned a little song. It was called (singing) who's afraid of the big bad wolf, the big bad wolf? Well, I want the brick house around our state.

SENATOR CUDABACK: Thank you, Senator Schrock and Senator Combs. (Visitors introduced.) On with discussion. Senator Chambers,

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 1, 2005

LR 8

and this will be your third time, as you know.

SENATOR CHAMBERS: Right. Mr. President, members of the Legislature, oh, Senator Friend is not here but what I was going to address to him I can address to everybody else. He said that something dear to you might come up and I'll do the same thing, or somebody might throw up 30 amendments. Nobody on this floor is going to do what I do. Nobody is going to undertake to put 30 amendments up and be prepared to debate every one of them and not be backed off. Some of my colleagues who talk about how easy it is to do what I do have trouble using all of their five minutes when they get up to speak, so how are they going to speak for five hours or five days? I welcome the challenge. They don't. You don't hear them standing up and saying, this is something that means so much to me I will bring the Legislature to a halt if need be. Well, people out in the lobby will start pulling on them. They'll start getting phone calls. Some reporter will want to ask them a question, and then suddenly reality comes. And I'm going to finish the song, but I'm not going to sing it, that Senator Schrock started. Who's afraid of the big bad wolf? And the song ends, not I, not I, not I. But around here you ask who's afraid of the big bad wolf? And the big bad wolf comprises those I mentioned that will put pressure. I am, I am too. I'm scared of everything. That's my colleagues. You are afraid to have people be upset with you. I'm not. I know what I'm here for and I know what I'm going to do, and I don't need a whole lot of company with me. I don't need to be the Chairman of a committee. I don't need to have a whole lot of people holding my hand and saying, I'll back you, I'll back you. You don't see me scurrying around the floor with a piece of paper, counting the number of votes, because that count is not written in stone. What else do I want to say right now since this is my last time? Senator Schrock mentioned something about a brick house to protect rights, something like that. I like that. That's colorful and it's apropos of this discussion. What is the brick house protecting the rights of the people in this state right now? Why, it's the constitution, the basic, the organic, the fundamental law of this state, that foundation on which all legislation will be built upon. So why are you going to weaken the walls of the brick house that protects your rights? Why do you want to trivialize it?

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 1, 2005

LR 8

Senator Schrock knows that no day is going to come when hunting, trapping, and fishing will be abolished in this state. Senator Mike Friend knows it, but fear multiplies itself. Mike Friend, when he stood up...Senator Friend yesterday, when he stood up, reminded me of General George Patton. I mean, he was laying it down. Went over and talked to Senator Schrock and this morning he comes back sounding like Pee-wee Herman. (Laughter) He's scared now. (Speaking gruffly) Well, I'm for LR 8CA because I grew up hunting and you never know, can't be too careful; PETA is hiding around the corner now, but one day they're going to come out in the open and they're going to take over this state and I can't hunt anymore. Bosh! I'm trying to use the language and the terminology of those who like hunting. I'm glad they don't have fox hunting in this state like they have in England, which Senator Stuhr lamented the passage of. You know how they kill the fox in England? The dogs...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...tear that little animal to bits. That is the sportsman attitude. A little animal that couldn't fight off one hound has to fight off a pack of them. I identify with the fox. Down here I'm constantly being pursued by the pack. My people in this country always faced a mob. They wouldn't come after us with one man. They always had to bring a mob to come and get us, and they had to violate their own laws and constitutions to do it. We follow the law. I follow the rules. Don't get mad at me. And if you change the rules, I'll master those and I'll whip you with those too. You all are the ones who talk about law and order. Well, you write the law and I will impose the order. It's going to be the order of Senator Chambers. (Knocks three times) I am the judge. I convene the court, I preside over the proceedings, and I adjourn the proceedings.

SENATOR CUDABACK: Time.

SENATOR CHAMBERS: Except when the Chair tells me time. (Laugh)

SENATOR CUDABACK: Thank you, Senator Chambers. Senator McDonald.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 1, 2005

LR 8

SENATOR McDONALD: Mr. President and members of the body, I think the question here is whether we need to put this in the constitution or not. You know, there are things in the constitution that some people think maybe shouldn't be in there. At this point in time, I think we need to step back and look at why we need to put this in the constitution. When it came to term limits, a lot of the money for term limits came outside of the state of Nebraska. And the information against term limits...or positive for term limits came out of the state of Nebraska. And it's in the constitution and we have to go back to the vote of the people to repeal any of this. I'm getting a lot of phone calls in my office and postcards concerning the right to work. There are various amount of people that will send postcards and they will call me, telling me not to vote for the bill on right to work. I ask them what number they're talking about. They don't know. I ask them what's in the bill. They don't know. But somebody told them to call and oppose the bill. Now, if we think that we will stop people from outside the state of Nebraska from changing our constitution and getting us to vote their way, it's going to happen, because many times we have uninformed voters out there. So could it happen that that right would be taken away from us? It absolutely could, because they don't know what rights we have. So as far as I'm concerned, we need to let the people in the state of Nebraska vote on this. We let them vote on gambling. It was our right to let that happen. We voted it out of the floor here. We put it on the ballot. They made the decision. They voted it down, but it was their right to vote that down. And so what we're merely doing is giving them the right to put that in. Now, can I talk enough time to satisfy Senator Chambers? I don't know. I'm a person of few words. I say what I think and that's all I think. I don't have bad wolf stories and I don't have Humpty Dumpty stories. I just tell it like I think. Thank you.

SENATOR CUDABACK: Thank you, Senator McDonald. Senator Mines, the reconsideration motion.

SENATOR MINES: Thank you, Mr. President. I would relinquish my time to the...to Senator Chambers. Thank you.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 1, 2005

LR 8

SENATOR CUDABACK: Senator Chambers, you have almost five minutes.

SENATOR CHAMBERS: Thank you, Senator Mines. Thank you, Mr. President. Thank you, Senator McDonald. Thank you, Senator Schrock, for bringing this. Thank you, Senator Mike Friend, for participating in the discussion. Thank you, Senator Byars, for not participating in the discussion. (Laughter) Thank you, Senator Landis, for all of those things people would thank you for if they knew about them as I do. It should be clear from the way that I'm giving my thank-you's that I'm not going to pursue this particular motion. But I'm going to say a few words, because I appreciate the fact that Senator Mines relinquished some time to me. There are people who, if they would take the time to read Nebraska's Constitution, read some of the small-print material beneath some of those provisions, which are brief summaries of cases that have been decided, interpreting those provisions, it will become clear that this is a document which should not be trivialized. It should not become a document filled with boilerplate. It should not become like a statute book. There are all kinds of fads that will crop up from time to time, and those fads will have their respective constituencies. If legislators are not mindful of their job, of their duty, of their responsibility, they will try to put those fads into the constitution and say they must do what their constituents tell them to do. I don't do what my constituents tell me to do. You know what my representation of my constituency consists of? Using my best judgment and learning what's going on. They sent me here because they don't have the time to work their way through these issues. They have confidence in my intelligence, my tenacity, and my ability to get things done in a hostile environment. That's why they sent me here. They sent me here more as a force than as an echo or an imitator or a reflection of all the confused things that the public at large will articulate from time to time. One thing is crystal-clear to me. The constitution, with all of its defects, with all of the nonsense currently in it, will not be made better or improved by adding more of the bad stuff that's in there. We should be trying to improve it. Mr. President, I'm going to withdraw that motion that is pending.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 1, 2005

LR 8

SENATOR CUDABACK: With no objection, seeing no objection, it is withdrawn. Senator Schrock, you're recognized.

SENATOR SCHROCK: Mr. President, members of the Legislature, at some point during the session I want to know where people stand on this issue, and if a vote needs to be taken to find that out, I think we should do it. I think the sportsmen of this state deserve to know where we stand on this issue. When an issue like this passes by an 80 percent majority in states with similar demographics, and we have been requested to put this on the ballot for their vote, I think we should do it. I don't know about you, but I was elected to do the will of the people of my legislative district and of the state of Nebraska, so I take this very seriously. I think we deserve to let them know where we stand, and I think you as a state senator need to let them know and need to let me know where you stand on this issue, and so I will be asking where you stand on this issue. Now, I want to make that perfectly clear. Now, nobody should feel threatened by this because there's 35 or 36 of us that will probably never run another election for the Legislature or, for that matter, any other public office. I see young Chris Langemeier down there. He might have a wonderful future. He might be in Washington someday. But I know what I'm going to be doing. I'm going to be spending time with my grandkids and doing a little traveling with my wife. And there's days when I'm down here now when I think I should be doing the other now. So...so maybe Mike Flood has got better aspirations, but I'm old enough to be your father, and so it's time for me to hang it up pretty soon. And I appreciate that because I have sons your age and what a joy it is to be around people your age and to have your youthful enthusiasm. So, like I said, I'm interested in this. I think the state of Nebraska and the sportsmen need to know where you stand on this, so I'm going to be asking questions. Not a threat; I just think we need to know where everything is at. I thank you for your time.

SENATOR CUDABACK: Thank you, Senator Schrock. Mr. Clerk, a motion.

CLERK: Mr. President, I do have other amendments, and I do have a priority motion. Senator Brashear, as Speaker, would ask

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 1, 2005 LB 198
 LR 8

unanimous consent to bracket LR 8 until March 14, 2005.

SENATOR CUDABACK: Any objections to the bracket motion? It is bracketed. Mr. Clerk.

CLERK: Mr. President, LB 198, a bill by Senator Raikes. (Read title.) Bill was introduced on January 7, referred to the Education Committee, advanced to General File. At this time, I have no amendments to the bill, Mr. President.

SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Raikes, to open on LB 198.

SENATOR RAIKES: Thank you, Mr. President, members of the Legislature. This is a bill that has got some history, not history on the order of maybe the last constitutional...proposed constitutional amendment, but this is one that has actually been advanced to General File out of the committee a number of times and seems to have never made it to the final gate, if you will. I think it is one that is not, as far as I know, controversial. It addresses an important need and it addresses it effectively. I'll try to explain. It would adjust...LB 198 would adjust state aid payments to reflect transfers of property due to annexation and dissolutions or reorganizations involving Class I school districts. Now, the provisions would apply whenever you have a Class I school district that dissolves or reorganizes and parcels of property do not become part of the school district in which the parcels were affiliated. So this is...this is a situation where you have a dissolution that occurs through one means or another, and the property is assigned to K-12 districts where the affiliation was not. Okay? The second and probably more significant part or application is within a Class II, III, IV, or V, or VI school district, when you have part of that district that is transferred to another school district due to a change in school district boundaries, in response to an annexation. Let me try to give you an example. Two or three years ago, maybe four, I can't remember exactly, there's a plant northwest of Lincoln, Kawasaki, that came to the city of Lincoln. At that time they were in the Malcolm School District. They came to the city of Lincoln and requested that they become part of the city of Lincoln, in particular because they wanted

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 1, 2005

LB 198

certain services. I think maybe sewer and water were a couple of them that they were most interested in. The policy of the city of Lincoln was that they could provide the plant those services, but only if the plant became a part of the city of Lincoln, seeing because it was adjacent that was possible. It is the case with a Class IV school district, which Lincoln is, that a the school district...or the city boundary moves, so does the school district boundary. So when this arrangement was agreed upon and carried out, the following happened: Property that had been in the Malcolm School District was all of a sudden in the Lincoln School District, and this was, as you might imagine, a significant amount of property. What impact does that have? Well, it does have an important impact because there is a year delay, if you will, in school aid formula calculations, as well as property tax calculations. To continue the example, Malcolm would...the school district of Malcolm would end up shorted in that arrangement without the bill, LB 198...and LB 198 was not, of course, in place at that time...but they would be shorted because of the following. Their state aid had been calculated assuming that they would be able to tax the Kawasaki plant, so, as a result of that, their state aid would be less. They had more local property; they get less state aid. So they had less state aid and, on the other hand--they got...they got the other part of the double-whammy--when it actually came time to tax, they were not able to tax Kawasaki because by that point it had been transferred to the city of Lincoln's school district. Lincoln, on the other hand...both of these happened to be equalized school systems. Lincoln, on the other hand, came out much better on the deal. Their state aid was higher because it was calculated assuming they did not have Kawasaki, but in fact they did have Kawasaki, so they got both the additional state aid and the opportunity to tax the Kawasaki facility. In addressing that situation, this bill would do the following. Before the August 20...or before August 20 preceding that school year that the taxes and the state aid would support, the school district who was being annexed into would apply to the state department because of the annexation. If they did, the following would happen. In the case of Lincoln, their state aid would be reduced to reflect the fact that they had the additional property to tax or to assess. On the other hand, Kawasaki...or,

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 1, 2005 LB 198

excuse me, Malcolm's state aid would be increased to reflect the fact that they did not have the property to tax. Basically, that's what's involved here. It's a...an equitable address of a calculation issue that arises with state aid when you have annexations. And as you know, annexations occur for a number of different reasons in a number of different parts of the state. This is something that has been in the works for a long time and, in fact, it's one of those that I must tell you I thought had already passed. I don't know how I lost track of it, but I did. It is not part of statute yet. It should be. I would urge your support. Thank you.

SENATOR CUDABACK: Thank you, Senator Raikes. Mr. Clerk, for an announcement, please.

CLERK: Mr. President, the Business and Labor Committee will meet in Executive Session in Room 2102.

SENATOR CUDABACK: Thank you, Mr. Clerk. On with discussion. We heard the opening on advancement of LB 198. Open for discussion on that motion. Senator Raikes, there are no lights on. You're recognized to close on advancement, if you care to.

SENATOR RAIKES: Thank you, Mr. President and members. I...this...there may be some questions about this, and certainly, if you have them, I would be happy to address them, but I would urge your support. Thank you.

SENATOR CUDABACK: Thank you, Senator Raikes. You've heard the closing on advancement of LB 198. The question before the body is, shall LB 198 advance to E & R Initial? All in favor vote aye; opposed, nay. The question before the body is advancement of LB 198 to E & R Initial. Have you all voted on the advancement who care to? Senator Raikes, for what purpose do you rise?

SENATOR RAIKES: Mr. President, I would request a call of the house, please.

SENATOR CUDABACK: There's been a request for a call of the house. All in favor of the house going under call vote aye;

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 1, 2005 LB 10, 198

opposed, nay. Record please, Mr. Clerk.

CLERK: 14 ayes, 0 nays, Mr. President, to place the house under call.

SENATOR CUDABACK: The house is under call. All unauthorized personnel please leave the floor. Unexcused senators report to the Chamber. The house is under call. The house is under call. Senator Schrock, will you check in, please? Senator Brown. Senator Schimek, will you check in, please? Thank you. Senator Cornett, Senator Langemeier, Senator Baker, Senator Foley, Senator Stuthman, Senator Synowiecki, Senator Smith, Senator Bourne, Senator Thompson, Senator Dwite Pedersen, Senator Brashear. Senator Smith. Senator Cornett. Senator Raikes, did you wish to accept call-ins?

SENATOR RAIKES: I did. I do. Thank you, Mr. President.

SENATOR CUDABACK: Mr. Clerk, please accept call-ins.

CLERK: Senator Dwite Pedersen voting yes. Senator Baker voting yes. Senator Burling voting yes. Senator Price voting yes. Senator Combs voting yes. Senator Cunningham...

SENATOR CUDABACK: Record please, Mr. Clerk.

CLERK: 26 ayes, 0 nays, Mr. President, on the advancement of LB 198.

SENATOR CUDABACK: LB 198 does advance. I do raise the call. Mr. Clerk, LB 10.

CLERK: LB 10, a bill by Senator Landis. (Read title.) Bill was introduced on January 6, referred to Business and Labor, advanced to General File. I have no amendments at this time, Mr. President.

SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Landis, to open on LB 10.

SENATOR LANDIS: Thank you, Senator Cudaback. Members of the

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 1, 2005

LB 10

Legislature, this bill was advanced by the Business and Labor Committee unanimously and I'd offer it to you this morning. We currently have a law that says you can't discriminate on the basis of sex in what you pay employees. However, the standard for that applies to companies that have 25 employees or more. Apparently, if you've got less than 25 employees it's okay to discriminate in this fashion. There are a number of laws on the books that affect one kind of unfair labor practice or form of discrimination or another, and they have different triggers. For example, age discrimination applies to employers 25 employees or larger. The Fair Employment Practice Act applies at 15 employees or larger. The alcohol and drug testing provisions in the benefit packages of employers applies at 6 employees or larger. Compliance with the wage and hour provisions of state law applies at 4 employees or larger. The child labor laws apply to all employees. And the non-English speaking rules that we passed several years ago at Senator Chambers' urging applies to employers of 100 employees or larger. What this bill does is to drop from 25 to 15 the number of employees that are necessary to have a business which would be covered by the antidiscrimination rule. Why 15? Out of all of the various objective standards that I could pick in existing law, the one that struck me the most salient was the Fair Employment Practice Act, which is 15 employees. Seems to me that treating genders alike with respect to wages is a fair employment practice, and for that reason I asked the Business and Labor Committee to report out a bill that dropped from 25 to 15 the number of employees in a business that would be covered by our antidiscrimination provisions with respect to payment for work and gender. I would ask for the advancement of LB 10.

SENATOR CUDABACK: Thank you, Senator Landis. You've heard the opening on advancement of LB 10. Open for discussion on that motion. Senator Landis, there are no lights on. He waives closing. The question before the body is, shall LB 10 advance to E & R Initial? All in favor vote aye; opposed, nay. The question before the body is advancement of LB 10 to E & R Initial. Have you all voted who care to? Record please, Mr. Clerk.

CLERK: 26 ayes, 0 nays, Mr. President, on the advancement of

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 1, 2005 LB 10, 236, 238

LB 10.

SENATOR CUDABACK: The motion was successful. LB 10
advances. Mr. Clerk, LB 236.

CLERK: LB 236, by Senator Combs. (Read title.) Introduced on
January 10 of this year, referred to Business and Labor,
advanced to General File. I have no amendments at this time,
Mr. President.

SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Combs, to open
on LB 236.

SENATOR COMBS: Mr. President, members of the body, LB 236 was
brought to me by the compensation court and was previously
introduced as LB 932 from our previous biennium. This bill
gives the review panel the authority to notice a plain error on
the part of the trial judge, whether or not the error was raised
by a party. Additionally, this bill clarifies that a party may
raise a cross appeal and allege errors in a brief, rather than
filing a separate application for review in the same case. It
was advanced from committee unanimously by all present, and also
had no opponents during its hearing. I would simply ask the
body to advance this legislation to Select File. Thank you.

SENATOR CUDABACK: Thank you, Senator Combs. You've heard the
opening on LB 236. Open for discussion on that motion. Senator
Combs, there are no senators wishing to speak. She waives the
opportunity to close. The question before the body is, shall
LB 236 advance to E & R Initial? All in favor of the motion
vote aye; opposed, nay. The question before the body is
advancement of LB 236, offered by Senator Combs, to advance to
E & R Initial. Have you all voted on the question who wish to?
Have you all voted who care to? Voting on advancement of
LB 236. Have you all voted who care to? Record please,
Mr. Clerk.

CLERK: 27 ayes, 0 nays, Mr. President, on the advancement of
LB 236.

SENATOR CUDABACK: LB 236 does advance. Mr. Clerk, LB 238,

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 1, 2005 LB 238, 262

when you get time.

CLERK: Mr. President, LB 238 is a bill by Senator Combs. (Read title.) Bill was introduced on January 10, referred to Business and Labor, advanced to General File. At this time I have no amendments to the bill.

SENATOR CUDABACK: Senator Combs, to open on LB 238.

SENATOR COMBS: Mr. President, members of the body, LB 238 was brought to me by the compensation court; was previously included in LB 198 from our previous biennium. LB 238 makes a number of technical cleanup changes to the Workers' Compensation Act. As I understand it, these changes were mutually agreed to by all interested parties and include changes related to insurance policy coverages and exclusions, release of medical records, interest, reportable injuries, cancelations and nonrenewal of workers' compensation insurance policies, and the appointment of acting judges. It was advanced unanimously by all committee members present, and had no opposition during its hearing. I ask that you...to advance this legislation to Select File, please. Thank you.

SENATOR CUDABACK: Thank you, Senator Combs. You've heard the opening on advancement of LB 238. Open for discussion on that motion. Seeing no lights on, Senator Combs, you're recognized to close on advancement. She waives closing. Question before the body is, shall LB 238 advance to E & R Initial? All in favor vote aye; opposed, nay. Question before the body is advancement of LB 238. Record please, Mr. Clerk.

CLERK: 27 ayes, 0 nays, Mr. President, on the advancement of LB 238.

SENATOR CUDABACK: LB 238 does advance. Mr. Clerk, LB 262.

CLERK: LB 262, by Senator Stuhr, relates to cemeteries. (Read title.) Bill was introduced on January 10, referred to General Affairs, advanced to General File. At this time, Mr. President, I have no amendments to the bill.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 1, 2005 LB 262

SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Stuhr, to open on LB 262.

SENATOR STUHR: Thank you, Mr. President and members of the body. LB 262 changes provisions relating to cemeteries in cities of the first and second classes and villages. It would allow a limited portion of the principal in certain perpetual funds to be used for the purchase and development of additional land for cemetery purposes. No more than 25 percent of the principal could be used in any fiscal year, and no more than 35 percent in any ten consecutive fiscal years. The current statutes vary in their provisions regarding perpetual funds. For example, under Section 16-242 for cities of the first class, the income from the sale of lots must be used for the care, ornamentation or maintenance of the lots or the cemetery in general. LB 262 would allow a limited portion of the perpetual fund principal to be used for enlargement of the cemetery. In addition, any money that comes to the fund by donation, bequest or otherwise that does not prohibit such use could also be used for additional cemetery land, and the same 25 to 35 percent restrictions would apply. This bill did advance to General File last year, but because of the time limits we were not able to address it. There were no opponents to the bill this year at the hearing, and it was passed unanimously by those present in the committee. It was brought on behalf of the League of Municipalities and also on the behalf of many cities and villages throughout the state. So I ask for your support in advancing LB 262 to Select File. Thank you.

SENATOR JENSEN PRESIDING

SENATOR JENSEN: Thank you, Senator Stuhr. Discussion on LB 262? Senator Chambers.

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, I would like to ask Senator Stuhr a question. This is for my information, Senator Stuhr. The bill talks about acquiring land, which I can understand, to be developed for cemetery purposes. How do they develop the land? Does that mean removing trees or...I'll let you tell me if you know what that means.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 1, 2005

LB 262

SENATOR STUHR: Yes, I would imagine whatever they have to do to develop the space. Yes.

SENATOR CHAMBERS: (Laugh) Thank you, Senator Stuhr. I'm going to ask that question of Senator Connealy, if he would yield. Senator Connealy, would you answer that question, please?

SENATOR CONNEALY: Yes, Senator Chambers. In testimony in past years on General Affairs Committee, we talked about maybe a trailer court next to a cemetery, and that would be purchased, and then remove the dwellings from it so that you could expand a cemetery.

SENATOR CHAMBERS: Okay. So it would be land abutting the cemetery, probably.

SENATOR CONNEALY: Most likely.

SENATOR CHAMBERS: And they would just expand into that, and remove whatever is there that would prevent them from digging holes and putting people in them.

SENATOR CONNEALY: That's correct.

SENATOR CHAMBERS: Thank you. And with that exchange, you now know what it's meant when it's said, the meek shall inherit the earth. About the only thing on this earth that the meek will inherit is that hole into which they will be dropped. Thank you, Senator Connealy.

SENATOR JENSEN: Thank you, Senator Chambers. Senator Pederson.

SENATOR D. PEDERSON: Thank you, Mr. President, members of the Legislature. Senator Stuhr, would you yield to a question, please?

SENATOR STUHR: Yes.

SENATOR D. PEDERSON: I was just curious. Where does the fund come from for these perpetual care that we were talking about in

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 1, 2005

LB 262

this bill?

SENATOR STUHR: Actually, there are different perpetual funds. This bill can also...the perpetual fund monies can come from donations, bequests. And the same restrictions would apply then to that perpetual fund. So...sale of lots.

SENATOR D. PEDERSON: Okay. Does this money come from individuals who are providing perpetual care for a particular cemetery plot that is for a family member of that plot?

SENATOR STUHR: Senator Pederson, did you say, would it come from individuals?

SENATOR D. PEDERSON: Yeah. I'm...the question I'm asking is, suppose that someone wants to buy perpetual care for the lot of their family member. Is that one of the situations that would be included within this treatment of perpetual care funds?

SENATOR STUHR: I would think so. I would...

SENATOR D. PEDERSON: Okay. Well, I just...as long as people understand that what they are doing when they provide perpetual care for their own family member or family plot, that a portion of that money could be used not just for that particular plot, but to also develop other lands. That's...I just wanted to make certain that that's what they would understand that they're doing that.

SENATOR STUHR: Yes. And Senator Pederson, you understand it's a very limited amount that...

SENATOR D. PEDERSON: I understand that.

SENATOR STUHR: ...(inaudible).

SENATOR D. PEDERSON: But it diverting funds. And would that include funds that previously had been put into these perpetual care? Or just new funds?

SENATOR STUHR: I think previous, yes.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 1, 2005

LB 262

SENATOR D. PEDERSON: Okay. So it includes everything. Okay. I understand. I just wanted to get it straight what you're actually doing. Many times, people do put in money for the perpetual care of their own family plot. And this is diverting some of that money, and I just wanted to make certain that people would understand that it is applying not just to new funds, but also to old funds, where they've already put in money for that purpose, which is basically diverting it from what they initially intended. Thank you.

SENATOR JENSEN: Thank you, Senator Pederson. Senator Connealy, wish to speak?

SENATOR CONNEALY: Thank you, Mr. President, members. And since the discussion with Senator Pederson, I thought maybe I'd clarify a little bit from what we had for testimony a year ago, and then again this year. There are some cemeteries that are out of space. And part of the way that they maintain themselves going forward is actually that lot sale. And they've been short of resources and short of ways to expand, so they are in jeopardy of not being able to maintain themselves. And the testimony was that we do take this very seriously, and try not to do it. And so the committee did, a year ago, lower the amount that could be taken out of the perpetual fund. I think 35 percent is probably still pretty high. But if it's...if a cemetery is totally landlocked, I understand the reasoning behind it. I discourage it, the use of it, extensively. But I think that there's some specific cemeteries that could use this benefit to try to maintain themselves. And so that's why I voted to support it coming out of committee last year, and the same this year.

SENATOR JENSEN: Thank you, Senator Connealy. Is there further discussion? Seeing none, Senator Stuhr, do you wish to close?

SENATOR STUHR: Yes. I thank the body for the discussion on this issue. And I just wanted to clarify again that only a limited portion of that principal in that perpetual fund could be used to purchase and develop additional land for cemeteries. As Senator Connealy stated, that some of our cities and our

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 1, 2005

LB 262, 355

villages are finding out that they are landlocked, and they do need some additional land to expand their cemeteries. And only 25 percent of the principal could be used in any fiscal year, and no more than 35 percent in a ten-year...in ten consecutive fiscal years. Thank you.

SENATOR JENSEN: Thank you, Senator Stuhr. The question is the advancement for LB 262. All those wishing to vote aye, please vote; those nay, also. Have you all voted? Record, Mr. Clerk.

CLERK: 25 ayes, 0 nays, Mr. President, on the advancement of LB 262.

SENATOR JENSEN: LB 262 is advanced. Mr. Clerk, LB 355.

CLERK: LB 355, by Senator Janssen. (Read title.) The bill was introduced January 11, referred to General Affairs, advanced to General File. I have no amendments at this time, Mr. President.

SENATOR JENSEN: Senator Janssen, to open on LB 355.

SENATOR JANSSEN: Thank you, Senator Jensen, members of the Legislature. LB 355 is a bill I introduced on behalf of the Nebraska League of Municipalities. LB 355 addresses a problem the league has had encountering in...and they have encountered this in the dealings with some of their cities. Currently, Nebraska statutes provide for the transfer of cemeteries from cities and villages to cemetery associations. However, the type of transaction that seems to be more common is the transfer of cemeteries from associations to cities and villages, especially in smaller communities. Apparently, it has become more and more difficult to find people willing to serve on a cemetery association, which ends up asking the city and village then to take that cemetery over. The problem is that there are no statutory guidance for this type of transfer. This bill is meant to provide guidelines for cemetery transfers from associations to cities, and use the same basic language from the statutes that allowed the opposite transfer to take place. There was no opposition to this bill, and it advanced unanimously from the committee. And I would ask for your support on this, and try to answer any questions you might have.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 1, 2005 LB 211, 355

SENATOR JENSEN: Thank you, Senator Janssen. Is there any discussion? Seeing none, Senator Janssen, do you wish to close? Senator Janssen waives closing. The question before us is advancement of LB 355. Those wishing to vote yea, vote aye; those nay, vote aye...(laugh) those opposed vote nay. Thank you. Have you all voted? Record, Mr. Clerk.

CLERK: 25 ayes, 0 nays, Mr. President, on the advancement of LB 355.

SENATOR JENSEN: LB 355 advances. Mr. Clerk, LB 211.

CLERK: LB 211, Mr. President, a bill by Senator Janssen. (Read title.) The bill was introduced January 7, referred to General Affairs. The bill was advanced to General File. I do have committee amendments, Mr. President. (AM0071, Legislative Journal page 360.)

SENATOR JENSEN: Senator Janssen, to open.

SENATOR JANSSEN: Thank you, Senator Jensen and members of the Legislature. LB 211 is the Statewide Cemetery Registry. This bill would accomplish something that I've been trying to get done for a few years. It would create a Statewide Cemetery Registry that would be established and maintained within the Nebraska State Historical Society. This issue came to my attention after I introduced a bill regarding the cemetery associations within a city limits, and their ability to acquire new land. In the course of working on that bill, I came to find that none of the counties had records on their cemeteries and cemetery associations, even though they are required by statute to have them. Many times, I have had people tell me about the inability to locate cemeteries of their ancestors, or tell me about disputes that have arisen over the location and the size of that cemetery, or about concerns about cemeteries that have been abandoned. All the bill asks for...those who own, operate, and maintain a cemetery, burial grounds, mausoleums, columbariums, to report the information that is reasonably available that they have about their cemeteries. All right. The basic information asked for is the location of the cemetery,

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 1, 2005

LB 211

a plat of the cemetery, names and addresses of those who own, operate, or maintain the cemetery, the inception date, whether the cemetery is abandoned, and if so, the abandonment date. As I said before, this...the information is to be reported only if it is reasonably available. And we ask that each registry be updated with any new information every ten years. We're not asking for details on those buried there, and we're not asking for information that you don't have, or can't find. In other words, no one will be penalized for failing to meet all the registry requirements. I'm asking...is for everyone's best effort to help us put together a central data bank for cemeteries, one location which can go to, to find out where our cemeteries are located. With that, that's just about the extent of the bill. I think we do have committee amendments, Senator Jensen. But, fine. I'll answer any questions someone might have.

SENATOR JENSEN: Thank you, Senator Janssen. Senator Janssen, you are recognized to open on the amendment.

SENATOR JANSSEN: Thank you, Senator Jensen, members of the Legislature. The committee amendments simply add the words "if available" to the requirements that a plat of the cemetery be included with the registration. We understand that it may be difficult to obtain a plat of the cemetery or burial grounds. And we do want the information, but do not want to impose huge burdens. So we're requesting that the plats of land only if available.

SENATOR JENSEN: Thank you, Senator Janssen. Any discussion on AM0071? Seeing none, Senator Janssen, do you wish to close on the amendment? He waives closing on the amendment. The question is the adoption of the committee amendment, AM0071. All those in favor say aye...or, vote aye; those nay, vote nay. Have you all voted? Record, Mr. Clerk.

CLERK: 26 ayes, 0 nays, Mr. President, on adoption of committee amendments.

SENATOR JENSEN: The committee amendments are adopted. Discussion on LB 211. Yes, Senator Beutler, you're recognized

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 1, 2005

LB 211

to speak.

SENATOR BEUTLER: Senator Janssen, there's an old pioneer cemetery in Richardson County. There's more than one. But the one I'm thinking of has slowly, over the last 40 years, become overgrown. The stones have been stolen. And now, today, you can barely identify that it was a cemetery at all. It's really one of the saddest situations that I know about with regard to these old cemeteries. And the last time I went up there, I couldn't find a single marker. I don't know if it's kids, or farmers using them for weights on their plows, or whatever. But I never could find out--and I didn't search as deeply as I should have, I suppose--but I never did find out who is responsible for maintaining that cemetery. And I guess just a curious question to you would be, is there somebody responsible for taking care of all these old pioneer cemeteries? Or are they oftentimes in the hands of a benevolent landowner who takes care of them just kind of on his or her own? And will this registry pick up those kinds of things, in the sense that if they're not being...if they haven't been identified by a city, a village, or a county, as this one apparently was not, because nobody was taking care of it...and it was fairly large at the beginning. There was at least 100 markers there. Or is it just hopeless trying to go back and identify some of these, and being sure they're all on the register and cared for? That's a lot of questions.

SENATOR JANSSEN: Okay.

SENATOR BEUTLER: But I'd be interested in your narrative on that.

SENATOR JANSSEN: All right. Okay. Yeah, Senator...

SENATOR JENSEN: Senator Janssen, would you respond?

SENATOR JANSSEN: Yes, I will. This has been one of the problems, Senator Beutler. Not only do we have these locations throughout the state, but there are some times when they are landowners that are running center pivots over the top of those cemeteries also. And this is what was the concern by the State

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 1, 2005 LB 211

Historical Society, of at least finding out where they're at, so they can identify the cemeteries. Sometimes it is...those records are lost on who is interred there. But if they can get them on a central registry and find out as much information as they can about that location where they're at, and contact, possibly, some of the relatives, to see if there's any interest in improving that cemetery, this is just the tip of the iceberg. First we want a registry of where they're located, if we can get that, and then go from there. So I would...you know, I believe in some cases the counties should be somewhat responsible for that. If there isn't an association left and it is an abandoned cemetery, I believe that is the case, that the counties are supposed to identify them.

SENATOR BEUTLER: Okay. Under the terms of the bill, it identifies certain entities that apparently take care of certain cemeteries. And it says, any other person which owns, operates, or maintains a cemetery shall register. So all of those people...

SENATOR JENSEN: One minute.

SENATOR BEUTLER: ...have to register. Is there any value to a provision that would allow an individual to register a cemetery?

SENATOR JANSSEN: Well, I believe that they...if...

SENATOR BEUTLER: Or what would be the down side of allowing an individual to do that?

SENATOR JANSSEN: I would imagine they...would there be a down side? I mean, if they wanted to register that cemetery as a descendant of that family, whether the care of that abandoned cemetery would fall back on their responsibility, I don't think so. I believe the responsibility would be on that county that that they're located in, or...well, if they're in a city, also, it would be a city's...

SENATOR BEUTLER: This bill doesn't affect the...

SENATOR JENSEN: Time. Senator Pederson, you're recognized to

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 1, 2005

LB 211

speak.

SENATOR D. PEDERSON: Yes. Senator Janssen, I have first a comment. The comment is, it looks like a very good bill. The question is, I noted in the notation of the committee statement that there was an objection by the Nebraska Catholic Conference. What in the world was that about?

SENATOR JENSEN: Senator Janssen, would you respond?

SENATOR JANSSEN: Well, they were a little concerned about someone getting into their records, and so on. And that was taken care of, and they have no objections now. I talked to their representative here a week or so ago, and he said, we have no problems with the bill the way it is now; thank you, go ahead with your bill. So that was the extent of that, Senator Pederson.

SENATOR D. PEDERSON: Thank you. That answers my question.

SENATOR JENSEN: Senator Stuthman, recognized to speak.

SENATOR STUTHMAN: Thank you, Mr. President, members of the body. I just want to bring a couple of issues to mind about, you know, pioneer cemeteries, older cemeteries, and things in the issue. It was referenced before in one of the conversations of center pivots going over cemeteries, and allowing that. That happened to be in my district where that was happening, because a cemetery had realistically been abandoned for many, many years, and the individual paid taxes on that ground and everything. And all of a sudden, they found that, you know, there were some ancestors that were living quite a ways away. And they had brought it to the attention of some individuals that this was happening. And there's an attempt to be made to clean up this cemetery, make it look very respectable. There was a ruling on it. The county board did not want to make a ruling. They turned it over to the judge, the county judge. And the ruling was that the center pivot had to cease going over that cemetery, mainly because they did not know, you know, was it going over a grave, or where it was going. So that was the ruling then. Right now, it's in the appeal process. So I do

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 1, 2005

LB 211

not know what's going to happen right now. But you know, I was under the impression for a long time, you know, that it was the responsibility of the county board of supervisors, you know, to maintain and keep these cemeteries, you know, mowed, or kept them clean for a little bit. But I think in the research that we have done on this issue, is that the county board can, you know, take care of a cemetery, just for the fact of mowing it twice a year, you know, just before Memorial Day, or...and then later on in the fall. So that...they can do that. I guess they do not have to do it if they don't want to. But I think if there's a county board that has respect for the ancestors of their community, I think realistically they will take care of it and do that. But it's something that they don't have to do. But I'm going to continue to watch what's happening in my local area, you know, as to whether that operation, the pivot, can continue over that. And it's a very touchy situation, because of the individual that has placed the center pivot on it. This center pivot goes in a windshield wiper form of operation. And there will be quite a number of acres that will not get irrigated if they have to stop it or alter it. I'm sure that they'll probably have to alter it in some way that they can make it work. But I'm supportive of this legislation. So I will just keep that in mind. So thank you for your comments, and I'll return the balance of my time to the Chair. Thank you.

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: Thank you, Senator Stuthman. (Visitor introduced.) Senator Beutler.

SENATOR BEUTLER: Senator Janssen, I just wanted to pursue a couple of questions with you a little further. I was about to ask you whether anything in this bill affected anybody's obligation to care, one way or another, for a cemetery. And I don't think there is. And that was not your intent, was it?

SENATOR JANSSEN: That's correct.

SENATOR BEUTLER: Okay. So if individuals were encouraged to come forth with information about cemeteries, that wouldn't impose any obligation on that individual simply because they

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 1, 2005

LB 211

chose to try to gather up the registration information...

SENATOR JANSSEN: Certainly not.

SENATOR BEUTLER: ...on something, would it?

SENATOR JANSSEN: No. No, it would not.

SENATOR BEUTLER: Okay. But if we did that, it would be possible that there might be a number of cemeteries that were registered. But would that cause anybody to go back and look at care and maintenance obligations?

SENATOR JANSSEN: It could, Senator Beutler. If we had a central registration area, and someone came, say, to the Historical Society and said, you know, I had some ancestors buried in such and such county, I think; could you help me find this? You know, and that would give them the leverage to do that. And then if those ancestors (sic) wanted to care for that cemetery, you know, that's about the only way it could happen, other than the county or the municipality that they're located in. This is what it's for, to let people know where their ancestors are buried.

SENATOR BEUTLER: Okay. Thank you very much, Senator. I'd yield the rest of my time back to the Chair.

SENATOR CUDABACK: Thank you, Senator Beutler. Any further discussion on the advancement, LB 211? Seeing no lights on, Senator Janssen, you're recognized to close.

SENATOR JANSSEN: Thank you, Senator Cudaback. Only to say that we have had some good discussion. And I hope that members of the Legislature who were interested in this did get an idea of what we're trying to do here, and provide information for those people who want to locate their ancestors. Thank you.

SENATOR CUDABACK: Thank you, Senator Janssen. You've heard the closing on the advancement of LB 211. The question before the body is, shall LB 211 advance? All in favor of the motion vote aye; those opposed, nay. The question before the body is

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 1, 2005 LB 211A, 211

advancement of LB 211, offered by Senator Janssen. Have you all voted on the motion who care to? Record please, Mr. Clerk.

CLERK: 28 ayes, 0 nays, Mr. President, on the advancement of LB 211.

SENATOR CUDABACK: LB 211 docs advance. Mr. Clerk, LB 211A.

CLERK: LB 211A, by Senator Janssen. (Read title.)

SENATOR CUDABACK: Senator Janssen, to open on LB 211A.

SENATOR JANSSEN: Thank you, Senator Cudaback. Of course, you know, things like this don't happen without some cost somewhere along the line. But what this A bill asks for is the resource to maintain the registry. Should become quite small. But they figured a half-time FTE, it would take that much to get this started and complete the registry.

SENATOR CUDABACK: Thank you, Senator Janssen. You've heard the opening on LB 211A. Open for discussion on that motion. Senator Don Pederson.

SENATOR D. PEDERSON: Thank you, Mr. President, members of the Legislature. It appears to me that any time you're going to do a function like this, it's going to entail a certain amount of money to do it. And it appears to me that the fiscal note that goes with this is very appropriate, in light of what is trying to be accomplished. Thank you.

SENATOR CUDABACK: Thank you, Senator Pederson. Further discussion on the advancement? Seeing no lights on, Senator Janssen, you're recognized to close. He waives closing. The question before the body is, shall LB 211A advance to E & R Initial? All in favor of the motion vote aye; opposed, nay. We're voting on the advancement of LB 211A to E & R Initial. Have you all voted on the question who care to? Record please, Mr. Clerk.

CLERK: 25 ayes, 0 nays, Mr. President, on the advancement of LB 211A.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 1, 2005 LB 7, 38, 71, 71A, 76, 94, 98, 111, 130, 205
 211A, 243, 243A, 244, 246, 287, 320, 396
 410, 446, 529, 654, 754, 755, 756, 757

SENATOR CUDABACK: LB 211A does advance. Mr. Clerk, do you have items for the record, or announcements?

CLERK: I do, Mr. President. Thank you. Enrollment and Review reports LB 98, LB 7, LB 205, LB 244, LB 246, LB 71, LB 71A, LB 243, LB 243A, LB 76, and LB 94 to Select File, some of those having Enrollment and Review amendments attached. Your Committee on Judiciary, chaired by Senator Bourne, reports LB 111, LB 320, LB 396, LB 654, LB 756 to General File; and LB 130, LB 410, LB 446, LB 529, LB 754, LB 755, LB 757 to General File with committee amendments attached; those reports signed by Senator Bourne. Priority bill designation: Senator Engel has selected LB 38. And a confirmation report from Health and Human Services Committee, Mr. President. And that's all that I have. (Legislative Journal pages 646-652.)

SENATOR CUDABACK: Thank you, Mr. Clerk. (Visitors introduced.) Mr. Clerk, LB 287.

CLERK: LB 287 is a bill by Senator McDonald. (Read title.) Introduced on January 10, referred to General Affairs Committee, advanced to General File. There are committee amendments pending, Mr. President. (AM0070, Legislative Journal page 360.)

SENATOR CUDABACK: Senator McDonald, you're recognized to open on LB 287.

SENATOR McDONALD: Mr. President and members, LB 287 directs the General Affairs Committee to examine the laws governing the management and the use of cemeteries. The General Affairs Committee would determine whether the cemetery and burial laws need to be rewritten so that the language in our statutes reflects how we use it today. Many of these laws were passed at the beginning of the last century, and haven't been updated. LB 287 directs the committee to examine the effects of urban and rural growth on cemeteries. Cemeteries on the edge of cities and towns that are growing have specific issues related to that growth. At the end of this year, LB 287 requires the General Affairs Committee to submit a report to the Legislature, along with their recommendations for policy changes. I encourage you

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 1, 2005 LB 287

to support LB 287, and help us bring Nebraska cemetery and burial laws into the twenty-first century. Thank you.

SENATOR CUDABACK: Thank you, Senator McDonald. As stated by the Clerk, there are committee amendments offered by the General Affairs Committee. Senator Janssen, Chairman of the committee, you're recognized to open on those amendments.

SENATOR JANSSEN: Thank you, Senator Cudaback, members of the Legislature. This is a very simple amendment. What it would do is strike subsection (3) on page 2 of the bill. This deletes the requirement that the General Affairs Committee meet at least twice, and that such meetings be held at certain locations, according to population. What the committee members thought is that we didn't want to put into statute something that might be...might prohibit our ability to get this study done the way it should be. We understand why Senator McDonald put the place of the hearing clause in the bill. And we have assured her that we intend to do meet as subsection (3) requires, and we intend to work with her and her staff to make sure that the study is done to her satisfaction. It's simply a matter of not wanting a statutory restriction that we do not think is necessary. That's the extent of the amendment.

SENATOR CUDABACK: Thank you, Senator Janssen. You've heard the opening on the General Affairs Committee amendments. Open for discussion. Senator Beutler. You're waiving your opportunity, Senator Beutler? Thank you. Senator McDonald.

SENATOR McDONALD: Mr. President, members of the body, I just want to thank the General Affairs Committee for working on this. And I think the amendment is pertinent to the situation, and I do respect their amendment, and will support it. Thank you.

SENATOR CUDABACK: Thank you, Senator McDonald. Further discussion on the committee amendments? Seeing no lights on, Senator Janssen waives closing. The question before the body is adoption of AM0070, offered by the General Affairs Committee. All in favor vote aye; opposed, nay. Have you all voted on the committee amendments offered by the General Affairs Committee who care to? Record please, Mr. Clerk.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 1, 2005 LB 287

CLERK: 27 ayes, 0 nays, Mr. President, on the adoption of committee amendments.

SENATOR CUDABACK: The amendments are adopted. Anything further on the bill, Mr. Clerk?

CLERK: Nothing further, Mr. President.

SENATOR CUDABACK: We're now discussion of the advancement of LB 287. Senator Beutler.

SENATOR BEUTLER: Senator Cudaback, members of the Legislature, I am reluctant to raise any sort of questions with respect to a bill that is obviously for a good purpose. But I did want to ask Senator Janssen a couple of questions about the bill, because it seems to me that this bill is circumventing our normal processes, and in an sense, circumventing it in a way that's a more expensive procedure. And what I mean by that, Senator Janssen, is this. This bill, if I'm reading it right, requests the General Affairs Committee to do an interim study on a particular issue. Isn't that the sum and substance of the matter?

SENATOR JANSSEN: Yes, Senator Beutler. But with the amendment we just passed, that deletes the requirement General Affairs Committee meet at least twice and that such meeting be held in a certain location according to population.

SENATOR BEUTLER: Well, I guess the point is this, Senator. There comes a time in the middle of the legislative session when the Speaker announces that by a certain date we'll all have our interim study suggestions put forward to each committee of the Legislature, right?

SENATOR JANSSEN: Yes.

SENATOR BEUTLER: And the...and that is our normal process. It's not necessary, in order to have an interim study, to go to the expense of having a bill on the topic. Would that be correct, Senator?

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 1, 2005

LB 287

SENATOR JANSSEN: Yes. But the amendment that we just passed does take that out of the bill, that we...you know, we do not have to do this. We will do it as we feel necessary on our interim hearings.

SENATOR BEUTLER: Yes. Well, your flexibility is certainly important. But beyond the question of flexibility, there are the questions of, one, expense in doing it this way; and two, the setting of precedent in this regard. I mean, if...is this bill going to cause you to put this interim study ahead of any other interim study in particular that might be suggested to you by other senators, for example?

SENATOR JANSSEN: I don't believe so, Senator Beutler.

SENATOR BEUTLER: Okay. So it will be put in the package of suggestions that comes to you, just like an interim study. And your committee will choose which one of those they're going to work with. Is that accurate?

SENATOR JANSSEN: I understand it that way, yes.

SENATOR BEUTLER: Okay. And so even though...even if we went forward and passed this as a bill, you might decide not to do this interim study, right?

SENATOR JANSSEN: Well, I don't believe the study would be asked for if there wasn't a need, either, though, Senator Beutler. But that would be weighed out by the committee.

SENATOR BEUTLER: Well, let's...I mean, let's just make the...let's make an assumption that you're looking at things. You don't know what the other interim studies are. You have the capacity to do so many interim studies; you'll take the ones that are most needed, and do those. Right?

SENATOR JANSSEN: That's correct.

SENATOR BEUTLER: And this one may or may not be in that group. Would that be accurate?

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 1, 2005 LB 287

SENATOR JANSSEN: Yes, I would say so.

SENATOR BEUTLER: Okay. So...

SENATOR CUDABACK: One minute.

SENATOR BEUTLER: ...why do we need this process that we're going through today?

SENATOR JANSSEN: Well, I believe that you should probably ask Senator McDonald that question, Senator.

SENATOR BEUTLER: Okay. Senator McDonald.

SENATOR CUDABACK: Senator McDonald.

SENATOR BEUTLER: Why do we need this process that we're going through today?

SENATOR CUDABACK: Senator McDonald.

SENATOR McDONALD: Well, in an interim study, as I know it is, is basically a suggestion to the committee, and they can choose or not to choose an interim study. This bill...in fact, I could have done a bill on issues for cemeteries, because I had an issue with a cemetery in my district, that's...in fact, several issues. But I didn't feel that we could have a bill unless we looked at the whole part of cemeteries. And so by just picking out a few issues that are a problem, let's look at the whole issue. And because of that, I presented a bill that said, hey, listen, we need to look at these. It's important. And...

SENATOR CUDABACK: Time.

SENATOR McDONALD: ...let's do an interim study.

SENATOR CUDABACK: I'm sorry Senator McDonald. (Visitors introduced.) On with discussion, advancement LB 287, Senator Beutler. I'm sorry, your light went off. Did you...Senator Beutler, did you wish to speak? Senator Beutler, did you wish

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 1, 2005

LB 287

to address the advancement?

SENATOR BEUTLER: Yes. Senator McDonald, let me come back to you. By passing this bill, do you intend that the General Affairs Committee will be forced to do this interim study?

SENATOR CUDABACK: Senator McDonald.

SENATOR McDONALD: I would hope that they would do it on their own. It is just...directs them to look at the statutes and to come back with some decisions.

SENATOR BEUTLER: But was it your intent that this would force them to do that? Or are they...it's at their discretion?

SENATOR McDONALD: I would guess that, looking at a bill, generally a bill is passed to require. You know, I don't know that a bill is ever passed to not require something. But it just requires them to look at the issues. I guess to say it's an interim study might be a misnomer. We're just requiring them to look at the issues.

SENATOR BEUTLER: I appreciate what you're trying to get done. My concern is this, is that we start a precedent whereby what essentially can be done by an interim study, people start to file bills to do. And if we're going to file bills to do interim studies, does that mean then that if a bill is filed and approved by the Legislature that that interim study comes ahead of other interim studies? How many bill...what might we get into here? Can't...let me ask you this. Is it possible...Senator Janssen seems to be very agreeable to doing the interim study. Is it possible that it could be agreed just to do it, without the bill?

SENATOR McDONALD: I suppose it could happen that way.

SENATOR BEUTLER: Okay. Thank you, Senator McDonald. I have no more to say about this at this time. But I would certainly encourage Senator Janssen and Senator McDonald to get together and just agree on an interim study. I...it may not seem important to anybody else, but I just don't want to get into a

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 1, 2005 LB 287

new process where people are filing bills in order to have interim studies done. I think that would be an encumbrance that would only confuse the system that is in place and seems to work pretty well. Thank you.

SENATOR CUDABACK: Thank you, Senator Beutler. Further discussion on advancement of LB 287? Senator McDonald, you're recognized to close.

SENATOR McDONALD: Mr. President, members of the body, I would recommend that we move this to Select File. And Senator Janssen and I and maybe Senator Beutler can discuss the need for the bill and whether we need to decide to pull it at that point in time. Thank you.

SENATOR CUDABACK: You've heard the closing. The question before the body is, shall LB 287 advance to E & R Initial? All in favor vote aye; opposed, nay. We're voting on the advancement of LB 287 to E & R Initial. Have you all voted on the question who care to?

SENATOR McDONALD: Mr. President, could I have a call of the house, please.

SENATOR CUDABACK: There's been a request for a call of the house. All in favor of the house going under call vote aye; those opposed, nay. Record please, Mr. Clerk.

CLERK: 16 ayes, 1 nay, Mr. President, to place the house under call.

SENATOR CUDABACK: The house is under call. All unauthorized personnel please leave the floor. Unexcused senators, report to the Chamber. The house is under call. The house is under call. Senators please record your presence. Senator Schimek, would you record yours? Thank you. Senator Landis. Senator Jensen, would you record your presence? Senator Johnson. And Senator Engel. Senator Dwite Pedersen. Senator Jensen. Senator Dwite Pedersen. Senator McDonald, did you wish for everybody to get here, or did you wish to accept call-ins?

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 1, 2005

LB 284, 287

SENATOR McDONALD: We can accept call-ins.

SENATOR CUDABACK: Call-ins have been accepted. Mr. Clerk.

CLERK: Senator Preister voting no. Senator Erdman voting yes.
Senator Dwite Pedersen voting yes. Senator Friend voting yes.
Senator Kruse voting yes. Senator Price voting yes.

SENATOR CUDABACK: Record please, Mr. Clerk.

CLERK: 25 ayes, 4 nays, Mr. President, on the advancement of
LB 287.

SENATOR CUDABACK: LB 287 advances. I do raise the
call. Mr. Clerk, LB 284.

CLERK: LB 284, Mr. President, by Senator Stuthman. (Read
title.) The bill was introduced on January 10, referred to the
Transportation Committee, advanced to General File. At this
time, I have no amendments to the bill.

SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Stuthman, to
open on the advancement of LB 284.

SENATOR STUTHMAN: Thank you, Mr. President, members of the
body. LB 284 makes three important updates to the motor carrier
services of the Department of Motor Vehicles. I'll give you a
little bit of history, as a background. In 1996, LB 1216
created the Division of Motor Vehicle Services. At this time,
the DMV was assigned to the agent of the Department of Roads of
the issuance of routine permits. In 2003, the Department of
Roads put the issuance of routine permits on-line. After that,
the DMV no longer needed to issue permits. This bill would
repeal Nebraska Revised Statute 75-386.8. Nebraska has been a
member of the International Registry Plan since the 1970s. The
IRP membership from time adopts amendments to the agreement of
the document. Because Nebraska is a member of the IRP, our
statutes should conform with the plan provisions, to avoid the
confusion from regulated motor carriers, DMV, and law
enforcement. Currently, the IRP allows vehicles traveling under
a trip permit to travel both intra- and interjurisdictionally.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 1, 2005

LB 139, 284

Nebraska has historically allowed only interstate travel under these permits. This bill contains changes that will allow carriers that are not registered in the IRP to buy trip permits at a weigh station and travel within Nebraska for a period of 72 hours. Trip permits are an alternative to IRP registration, and are necessary because some carriers make few trips outside of their home state, therefore they do not register for interstate travel through IRP. The specific change in this statute allows unlimited travel in Nebraska on a trip permit for a 72-hour period. Currently, Nebraska allows only one trip across the state. This change would bring the Nebraska into conformity with IRP provisions allowing for the use of trip permits as an alternative to the IRP registration. Nebraska is one of three states that do not conform with this provision of the plan. Lastly, this bill eliminates the requirements that DMV serve as the agent of the Department of Roads to issue routine permits to carriers. The Department of Roads now issues all such permits on-line. Therefore, there is no need for the DMV to issue permits any longer. This bill has no fiscal impact. And I would ask that the body move this bill on to Select File. Thank you.

SENATOR CUDABACK: Thank you, Senator Stuthman. You've heard the opening on the advancement of LB 284. Open for discussion on that motion. Seeing no lights on, Senator Stuthman, you're recognized to close on the advancement. He waives the opportunity. The question before the body is, shall LB 284 advance to E & R Initial? All in favor vote aye; opposed, nay. The question before the body is the advancement of LB 284. Have you all voted on the question who wish to? We're voting on advancement of LB 284. Record please, Mr. Clerk.

CLERK: 28 ayes, 0 nays, Mr. President, on the advancement of LB 284.

SENATOR CUDABACK: The motion was successful. LB 284 advances. Mr. Clerk, LB 139, when you get time.

CLERK: LB 139, Mr. President, a bill by Senator Schrock. (Read title.) The bill was introduced on January 7, referred to the Natural Resources Committee, advanced to General File. I do

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 1, 2005

LB 139

have an amendment to the bill, Mr. President.

SENATOR CUDABACK: Senator Schrock, you're recognized to open on advancement of LB 139.

SENATOR SCHROCK: Mr. President, members of the Legislature, this bill was brought to us by the public power industry. The following constitutes the reason for this bill, and the purposes which are sought to be accomplished thereby. LB 139 allows any public power district, corporation, or municipality that engages in the generation or transmission of both...or both, of electric energy for the sale to the public for light and power purposes, to produce, store, or distribute hydrogen for the use in fuel processes. I say it again. It allows them to produce and store or distribute hydrogen for the use in fuel processes. The production and utilization of hydrogen is expected to become an important new source of energy for the future. Electricity production may be one of the important processes used to produce hydrogen. The public power industry in Nebraska is positioned to play a significant role in the emergence of a hydrogen economy that will likely emerge as society looks for ways to reduce its reliance on fossil fuels. In the processes of making electricity, public power or power generation creates a lot of hydrogen. And I'm told this is especially true in the nuclear plants. And then the hydrogen can be used to run fuel cells. It's new technology. And public power always has to bring their issues to the legislative floor if they're going to do something new. It's called Dillon's Rule--you can't do it unless it's expressly permitted in statute. And so that's why the bill was brought to us. It makes a lot of sense. I don't think this has anything to do with anything else, and I think it's very simple. It allows public power to utilize, store, and produce hydrogen, and to see how that might play into our future energy uses. Thank you.

SENATOR CUDABACK: Thank you, Senator Schrock. Mr. Clerk, a motion on the desk.

CLERK: Mr. President, Senator Schrock would move to amend his bill with AM0647. (Legislative Journal pages 652-653.)

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 1, 2005 LB 139

SENATOR CUDABACK: Senator Schrock, to open on AM0647 to LB 139.

SENATOR SCHROCK: This amendment was brought to our attention by the Municipal Power Pool. And they weren't sure that it was totally clear that this bill includes all public power. So the amendment adds a definition of "public power industry" to include all public power suppliers in Nebraska. And like I said, this amendment was brought to our attention by the Nebraska Municipal Power Pool, to make sure that the bill was all-inclusive for all public power.

SENATOR CUDABACK: Thank you, Senator Schrock. You've heard the opening on AM0647, offered by Senator Schrock to LB 139. Open for discussion. Senator Beutler.

SENATOR BEUTLER: Senator Schrock, just one question, if I may. Does this bill maintain the line between public power and private power, in the sense that private entities would be effectively prohibited from engaging in this kind of power production?

SENATOR CUDABACK: Senator Schrock.

SENATOR SCHROCK: Senator Beutler, I'm not sure if I can answer that. My perception here would be that it wouldn't prohibit somebody from engaging in the production of hydrogen, but it would prohibit...but it wouldn't allow them to produce and sell electricity in this state. I don't know if that's correct or not, but that's the way I would interpret this. I don't think this prohibits anybody else from producing hydrogen. But it...

SENATOR BEUTLER: Okay. Would you explain a little bit more--and I should be up to date on these things, but I'm not--about the technology of hydrogen production? What's being produced, what the different ways of using it are, and what's the distinction between producing it and what this bill allows to happen.

SENATOR SCHROCK: Let me read out of February's State Legislatures magazine, in an article that was printed by this magazine. And this paragraph here: Hydrogen fuel cell powered

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 1, 2005

LB 139

vehicles are where the future lies. Hydrogen is the most plentiful element on the planet. It is found in every glass of water, in natural gas and even in landfill gas-sewage. This is not a new technology. Sir William Robert Grove invented the fuel cell in the 1830s. Grove knew that by using electricity he could split water into hydrogen and oxygen. He theorized if you reversed the process and combined hydrogen and oxygen you would get electricity. He tried it. It worked. It still works today and after billions of dollars in investment and research, fuel cell buses and vehicles are now on the road. So it's a technology out there that I'm not equipped to tell you about. But I do know that when you produce electricity, hydrogen is a by-product. And our public power entities in the state want to be able to use that, see if they can produce electricity with it, see if they can power fuel cells with it. And we know that's possible. We're just not sure where everything falls into place. And before they go any further with this technology and experimenting with it, they want explicit authority in statute to allow them to do that. I don't believe this prohibits anybody else from being involved in hydrogen technology. But public power wanted to make sure, before they got any more involved in it, that it was in the statutes that they could do this.

SENATOR BEUTLER: Okay. And they, under this bill, could be in the business of manufacturing hydrogen fuel cells?

SENATOR SCHROCK: Yes, that would be my understanding.

SENATOR BEUTLER: But anybody else could also be in that business?

SENATOR SCHROCK: Yes.

SENATOR BEUTLER: Okay. And besides the production of hydrogen fuel cells, is there any other technology that's authorized by this bill? Any other...are there other hydrogen technologies out there that we're talking about? Or is this basically what we're talking about here?

SENATOR SCHROCK: We don't know, Senator Beutler. And I don't

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 1, 2005

LB 139

know what the future will hold. But you can produce electricity with hydrogen. And so I don't know where this is all going to lead us. But, you know, if something does come along that's more extensive and gets pretty involved, I'm sure they'll be back to the Legislature.

SENATOR BEUTLER: Okay. Thank you, Senator Schrock.

SENATOR CUDABACK: Are you through, Senator Beutler?

SENATOR BEUTLER: I am done. Thank you, Senator Cudaback.

SENATOR CUDABACK: Thank you. Senator Mines, on the Schrock amendment.

SENATOR MINES: Thank you, Mr. President. Could I have...would Senator Schrock yield, please?

SENATOR CUDABACK: Senator Schrock, would you yield?

SENATOR SCHROCK: Yes.

SENATOR MINES: Senator, I'm not trying to trip you up, but I...and I have to admit that I just saw this amendment for the first time. My first concern is the definition of "public power industry." In the amendment, it includes public power districts and public power. It also includes irrigation districts, or in my terminology would define an irrigation district as a public power...as part of the public power industry; municipalities, and municipalities would be inclusive of all 500 municipalities in the state, not just those that provide their own electric power distribution or generation. That's the way I read it. Registered groups of municipalities. And I'm not really sure what that means. And I'm just giving you the laundry list, because I'm not really sure, Senator. And then of course it includes electric cooperatives, electric membership associations. And then it includes joint entities formed under the Interlocal Cooperation Act, which could be just darn near anything. And it goes on and on. I'm just really curious if these definitions are intentionally broad, and if so, why that might be.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 1, 2005

LB 139

SENATOR SCHROCK: Senator Mines, my understanding, that this only applies to this act. So it would only apply to the distribution, storage, and technology that is associated with hydrogen. So I wouldn't think that this would give them any broader authority than just to what this...just how it deals with hydrogen.

SENATOR MINES: Okay. I guess...and I'm not opposed to it. I'm trying maybe to outthink this.

SENATOR SCHROCK: No, I understand that. I understand that.

SENATOR MINES: Yeah. And I wonder if by definition in this statute it might impact other areas of the law that I don't know about. So...

SENATOR SCHROCK: The answer to that is, no.

SENATOR MINES: Okay.

SENATOR SCHROCK: But we can explore that further if there's some more...if there's some doubt.

SENATOR MINES: All right. Yeah, thank you. Thank you. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Mines. Senator Raikes.

SENATOR RAIKES: Thank you, Mr. President, members. I wonder if I could ask Senator Schrock a question or two.

SENATOR CUDABACK: Senator Schrock, would you yield?

SENATOR RAIKES: Senator, what about amending this to include not only hydrogen technologies, but BPL?

SENATOR SCHROCK: Senator Raikes, I think probably at this time that would be inappropriate.

SENATOR RAIKES: But isn't this kind of on the same issue?

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 1, 2005

LB 139

Aren't we talking about a potential technology that could be of benefit to the citizens of Nebraska? And yet, we don't really know for sure, in the case of hydrogen...and I know very little about this, I admit, but it seems to me it's potentially a significant area of technological advance, possibly a significant industry and a significant profit center. And we're proposing, at least--and I agree with your proposal here--to move forward and say that power companies can go ahead and investigate this, whereas it doesn't seem to be the case with broadband over power lines.

SENATOR SCHROCK: Senator Raikes, at this time I would like to keep the bill confined to hydrogen. But do I disagree with you? No, I don't disagree with you. But I will tell you that hydrogen is something that, it's an unknown. It's...and the one thing about fuel cells is, there's just zero pollution. It's probably the cleanest form of energy we can get without using the renewables, which is the hydropower and the wind power and solar power, which, you know, are not going to be an insignificant part of our energy portfolio in the future, but they're not...they're probably not going to be major players.

SENATOR RAIKES: Well, as I say, Senator, I appreciate your approach. An alternative would be, it seems to me, would be to suggest the notion, which may in fact be true, that at some point, under some condition, some private entity could enter into the hydrogen business and make some money. Therefore, we should say that no power company could ever do any technological work or any development of hydrogen forever; we're simply not going to allow it in the state. Does that seem to you to be a reasonable approach?

SENATOR SCHROCK: No, I don't think it is, Senator Raikes. I think when we have new technology we should embrace it and explore ways to utilize it for the benefit of our citizens.

SENATOR RAIKES: Okay. Thank you very much, Senator.

SENATOR CUDABACK: Thank you, Senator Raikes. Further discussion on the Schrock amendment, AM0647? Further discussion? Seeing nobody wishing to speak to AM0647, Senator

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 1, 2005

LB 139, 441

Schrock, you're recognized to close. Waives closing. The question before the body is, shall AM0647 be adopted? All in favor vote aye; opposed, nay. The question before the body is adoption of the Schrock amendment, AM0647, to LB 139. Have you all voted on the question who care to? Voting on AM0647. Have you all voted? Record please, Mr. Clerk.

CLERK: 26 ayes, 0 nays, Mr. President, on the adoption of Senator Schrock's amendment.

SENATOR CUDABACK: The amendment has been adopted.

CLERK: I have nothing further, Mr. President.

SENATOR CUDABACK: Thank you, Mr. Clerk. Now discuss the advancement of LB 139. There are no lights on, Senator Schrock. You're recognized to close.

SENATOR SCHROCK: Mr. President, I would ask you to advance this. This is talking about new technology. It has to do with hydrogen and allowing our public power industry to explore that technology for the beneficial use of the citizens of the state of Nebraska.

SENATOR CUDABACK: Thank you, Senator Schrock. You've heard the closing on LB 139. The question before the body is, shall LB 139 advance to E & R Initial? All in favor of the question vote aye; opposed, nay. We're voting on the advancement of LB 139. We're voting on the advancement of LB 139, as amended. Have you all voted who care to? Record please, Mr. Clerk.

CLERK: 25 ayes, 0 nays, Mr. President, on the advancement of LB 139.

SENATOR CUDABACK: LB 139 does advance. Mr. Clerk, LB 441.

CLERK: LB 441, by Senator Kremer. (Read title.) The bill was introduced on January 13, referred to the Agriculture Committee, advanced to General File. I have no amendments at this time, Mr. President.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 1, 2005

LB 441

SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Kremer, to open on LB 441.

SENATOR KREMER: Thank you, Mr. President, members of the body. LB 441, all it is, is pretty simple. It increases the maximum fee for the brand inspection from 65 cents to 75 cents. The Brand Committee is a wholly cash funded agency, and the majority of the funds that they receive come from the brand inspection fees, although they do have a little of their income from other sources. The way the brand inspection fee works is, it moves up and down with whatever the needs are. And I can give you a little example, that if the cash reserve is expected to exceed and remain at 45 percent above the annual expenditures, the committee is obligated to reduce the fees. And if the combination inspection fee and other fees and revenues are expected to be insufficient to maintain the cash reserve at least 20 percent of the annual inspections, the committee may adjust the fees upward. There has been a reduction in the number of livestock that have been brand...inspected in the last few years, because of the drought. And their reserve has dropped below that 20 percent of the annual expenditures. And so they need to increase. I will give you a little idea of how this has worked. In June of 1981 through '85, the fees were 40 cents per head. On September '85 through September '91, the fees increased to 50 cents. And then December '97 they increased to 60 cents. In...or, from '98 to 2003, they actually lowered to 55 cents. Went back up to 60 cents in February of '04. And at the present time, they're at the maximum of 65 cents, and are in need of more to keep that revenue...or the reserve at that...at the balance that they need to maintain. So all this does is caps the maximum at 75 cents rather than 65. And I think it's pretty simple. I'd be glad to answer any questions if you might have them. Other than that, I would like to have you...ask you to advance the bill. Thank you.

SENATOR CUDABACK: Thank you, Senator Kremer. You've heard the opening on LB 441. Open for discussion. Senator Stuthman. Senator Stuthman, did you wish to address?

SENATOR STUTHMAN: Thank you, Mr. President, members of the body. I would like to engage in a little conversation with

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 1, 2005

LB 441

Senator Kremer, please, if I could.

SENATOR CUDABACK: Senator Kremer, would you yield to a question from Senator Stuthman?

SENATOR KREMER: Yes, I would.

SENATOR STUTHMAN: Thank you, Senator Kremer. The main reason behind this bill is mainly because of the amount of inspections that they have been doing, and the amount of livestock. And it's beginning...it's below that level that has been established? Is that the way it realistically is?

SENATOR KREMER: Yes, it is. They actually were at 60 cents up until a year ago, and had to reincrease to 65, and then that hasn't been enough. Now this 75 is a maximum, too. That's not saying next year they maybe go up to 70. And it could be, with the number of livestock inspected, the year after that it could be even lower again then. So it varies in order to maintain the fees that they...or the revenue that they need to run the inspection service.

SENATOR STUTHMAN: Okay. Thank you. How much value do you feel...have you been visiting with any of your constituents or any of the constituents in the brand area? How much value is brand inspections? And how much...how many cattle are captured just because of the brand? Or get back to their rightful owner when cattle are missing? Have you got any idea as to what that amount is?

SENATOR KREMER: I think we have some figures, but you might have to give me just a little bit of time for that. But I think they feel it's very important. Because usually the people in the brand inspection area feel like the whole state should be in the brand inspection area. And that...we had even a bill this year to do that, but it's not going to go anywhere. But now each county that's contiguous to a brand inspection area could be included if they would so desire. But that has to be done through legislation, so. I'll try to get that information to you in...

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 1, 2005

LB 441

SENATOR STUTHMAN: Okay. Thank you. The thing that concerns me is, you know, since we have a brand inspection area and we have an area of the state that, you know, isn't inspected. And I have a real concern. You know, the counties where the pastureland is, and you take the animals up there, and they are inspected coming out of the pasture. And I've had the misfortune of taking cattle, and I've lost as many as four to five head out of a hundred head that just disappeared, never ever did find them. So where they ever went, there was no carcasses, nothing. So, I mean...and I paid for the inspection also of the other ones. I don't think, in the time that I've...in the many years that I've taken my cattle out to the brand area, I don't think maybe but once one of my calves were ever found. So you know, I have lost, you know, quite a number of animals. Some of them did...they did find some carcasses. But other ones, the last time I had the misfortune of losing quite a few big ones, never did find them. And in that same instance that year, there was a lot of cattle that were lost in all the pastures in that certain area. So I don't know. Since we have the situation of a brand area and an unbranded area, I think this really compounds the problem. They can rustle them out at night, get them into a sale barn or somewhere where there is not a brand inspector there. So it really is a problem. So I don't know if Senator Kremer has got any answers yet. Otherwise, I'll try to ask him questions, or may ask him later on, off the floor.

SENATOR CUDABACK: Thank you, Senator Stuthman.

SENATOR STUTHMAN: Senator Kremer.

SENATOR CUDABACK: Senator Kremer, did you wish...?

SENATOR KREMER: Okay. We did not come up with anything. And I'll try to find some and give it to you, because I know I have seen that data of how many animals that they have identified. I'm sure every case, they're not going to find them. But there are some that do, or quite a number. And we'll try to get that to you. I'm sorry I don't have it right now.

SENATOR STUTHMAN: Yeah. The situation that I'm concerned with

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 1, 2005 LB 32, 441

is, you know, if you lose several animals and you still pay an inspection fee,...

SENATOR CUDABACK: One minute.

SENATOR STUTHMAN: ...for the amount of inspection fee, if you have several hundred head, up to 400 or 500 head, you could lose one anyway; be the same amount that they're going to pay the brand inspector. So it's kind of a wash, in my opinion. I wished it would be, you know, either all the state or none, in my opinion. So that's the comments that I have. And return the balance of my time to the Chair. Thank you.

SENATOR CUDABACK: Thank you, Senator Stuthman. Further discussion on advancement of LB 441? Seeing no lights on, Senator Kremer, you're recognized to close.

SENATOR KREMER: Thank you, Mr. President, members of the body. I'd just remind you again, this just increases the maximum fee to 75 cents from 65. Does not have to mean they go up to that. And there's a built-in formula so that the fees would have to be lowered if there were more fees coming in than what they really need. If the reserve exceeds 45 percent of the expected expenditures, then it would be lowered, too. So it just...it raises the maximum. With that, I'd ask you to vote in favor of LB 441. Thank you.

SENATOR CUDABACK: Thank you, Senator Kremer. You've heard the closing on the advancement of LB 441. The question before the body is, shall LB 441 advance to E & R Initial? All in favor of the motion vote aye; opposed, nay. Have you all voted on the motion who care to? Record please, Mr. Clerk.

CLERK: 26 ayes, 0 nays, Mr. President, on the advancement of LB 441.

SENATOR CUDABACK: LB 441 does advance. Mr. Clerk, LB 32.

CLERK: LB 32, a bill by Senator Schrock. (Read title.) The bill was introduced on January 6, referred to the Natural Resources Committee, advanced to General File. I have no

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 1, 2005

LB 32

amendments to the bill at this time, Mr. President.

SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Schrock, you're recognized to open on advancement of LB 32.

SENATOR SCHROCK: Mr. President, members of the Legislature, the purpose of this bill is to raise the maximum amount per diem expenditures for natural resource district board members from \$2,800 per calendar year to \$3,600 per calendar year. Since the passage of LB 962 and other water-related issues, which has made several changes to the water management status for natural resource districts, the directors are spending more days each month meeting with local working groups to develop water management plans. At the present time, they can receive \$70 per day for work done on natural resource issues that pertain to their NRD. And what we're finding out with the new duties and with all the water issues that are in front of these NRDs, that many of our board members who are hardworking are maxing out to their \$2,800. And we thought it would be appropriate to raise that to \$3,600. It's a bill that's been brought to us by the Natural Resource Districts Association. I'm glad to carry this for them, because as you know, things get complicated. And with all the complicated issues we have that our natural resource districts had to deal with, the \$2,800 per year is proving to be inadequate. It's not a big raise. It's going from \$2,800 to \$3,600. I would ask for your consideration of this legislative bill.

SENATOR CUDABACK: Thank you, Senator Schrock. You've heard the opening on the advancement of LB 32. Open for discussion on that motion. Senator Beutler.

SENATOR BEUTLER: Members of the Legislature. Senator Schrock, I certainly have no objection to raising per diems in situations where the workload has increased significantly. And can you just briefly describe what workload...what the workload increase has been over the last few years? You're talking LB 962 and all the additional management responsibilities that they have in some districts, and their control over water, and that sort of thing?

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 1, 2005

LB 32

SENATOR SCHROCK: Well, let me just give you an example of one NRD. The Lower Republican NRD at Alma is now working with issues pertaining to curtailing the use of water. They are in the final stage of putting all meters on wells. So the wells that they are pumping in that NRD will all be metered this year. And they are in negotiations with the...Roger Patterson of the Department of Natural Resources, on the quantity of water they're using. So it's my understanding, sometime in the next week or two, they're going to have a public hearing to get public input on the controlled use of the quantity of water pumped, so that they can meet the requirements of the compact that we have with Kansas, and our agreement with Kansas on water use. And so they'll be holding a hearing there. There's just a lot of things that they're doing now that they didn't have to do before. This is just one example.

SENATOR BEUTLER: With all these increases in responsibilities, Senator...and part of these responsibilities involve their relationship with municipalities in their particular areas, does it not?

SENATOR SCHROCK: Yes, that is correct.

SENATOR BEUTLER: In fact, you have some disputes going now, subsequent to LB 962, with regard to the relationship between NRDs and municipalities, right?

SENATOR SCHROCK: That is correct. Let me state, Senator Beutler, that it's my perception that with a few exceptions, the NRDs are getting along quite well with municipalities, and they're wanting to work with municipalities on economic development and adequate water for the future. Now, the task force is going...which I believe meets in Kearney either this week or next week. Meets tomorrow in Kearney. It's my understanding they're going to have a subcommittee meet with the League of Municipalities and other interested parties to try and resolve these differences...these differences. And I would expect there may be some legislation on that next year. There's legislation in front of us now, but we're not quite ready to act upon it until we have better input. And so I would expect legislation next year to try and make sure that our

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 1, 2005

LB 32

municipalities' water needs are met. And as you know, agriculture uses most of the water in this state. Depending on how you figure, but I've heard figures of 91 percent for irrigation and 2 percent for livestock. That leaves only 7 percent for the rest of the state. So agriculture uses a lot of water. It's my perception that there is no one on the task force that wants a municipality to be short of water, especially if they're in an area where they can use it for economic development.

SENATOR BEUTLER: Okay. The thing that I was getting to, Senator, is this, that there is a close relationship between municipalities here and the rural areas, in terms of cooperation on the use of water. Not only that, but are not the municipalities, the people in municipalities, are not...they're paying these taxes, too, that deal with all of this water regulation that's going on, are they not?

SENATOR SCHROCK: That is correct.

SENATOR BEUTLER: And they're paying increased taxes now, because of the increased...the necessity of increased regulation. Would that be correct?

SENATOR SCHROCK: That is correct. I would tell you, in my area of the state, the bulk of the taxes is still paid by ag land. But the municipality contribution is not insignificant.

SENATOR BEUTLER: Okay. And do you have a bill in your committee that would purport to make the NRD districts more or less one person, one vote, so that everybody is roughly represented in this equation?

SENATOR SCHROCK: Yes we do, Senator Beutler.

SENATOR CUDABACK: One minute.

SENATOR SCHROCK: And I will tell you, at the present time, it's quite poorly drafted. And so we're going to work on that and come back to the committee with that proposal. I can't tell you right now that...there was a lot of opposition testimony at that

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 1, 2005

LB 32

hearing. There was some support, including the Association of Natural Resource Districts. But I know it was very close. And it's a contentious issue.

SENATOR BEUTLER: Well, Senator, you know, one person, one vote was a legal argument you could make two decades ago. And now, with all of the increased responsibilities, I'm guessing if somebody wanted to push it to the point of litigation, one person, one vote could be required of the NRDs. But I think that's totally unnecessary, and a waste of money, and something that we should be doing for ourselves now, because of the broad responsibilities of the NRDs. And this pay increase, which is something like 40 percent, if that represents the increase in the involvement of the NRDs in different types of regulatory schemes that the whole district pays for, that seems to me even more evidence that we should have one person, one vote, we should have it this year. And I'm not sure there should be any NRD bills until we get that straightened out.

SENATOR SCHROCK: Well, the pay increase is more in line of 30 percent. And I understand what you're saying, Senator Beutler. But there again, 97 percent of the...or 93 percent of the water is used by agriculture. And so...well, let me just say...let me say this. I'm proud to tell you, Senator Beutler, that about 18 of the 23 NRDs are pretty close to one person, one vote right now. So...and I think what I did hear in the hearing was that we don't need to push this; it's happening now. Will some of them ever get there? I don't know. As you know, the bill that I introduced is 1.5 to 1. And then we have a controversial issue of...a lot of the NRDs have two seats in one subdistrict. And so the language we proposed did not accommodate that. So we're working on it. And when the committee goes into Exec Session, it's one of the issues we're going to take up. We haven't swept it under the rug, if that's what you're driving at.

SENATOR BEUTLER: Well, Senator, I would simply note...

SENATOR CUDABACK: Time.

SENATOR BEUTLER: ...that 2-3218 is the correct section of...

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 1, 2005

LB 32

SENATOR CUDABACK: I'm sorry, Senator Beutler.

SENATOR BEUTLER: ...statutes for dealing with one person, one vote.

SENATOR SCHROCK: Okay.

SENATOR CUDABACK: Thank you, Senator Beutler. (Visitors introduced.) On with discussion, Senator Stuthman.

SENATOR STUTHMAN: Thank you, Mr. President, members of the body. I've been taking a serious look at this bill and by increasing the per diem amount of these individuals board of directors that serve on these NRDs. It...in doing some of the math on that, realistically now they can earn up to \$2,800 a year. So that would be, you know, 40 meetings a year that they could have. That would be a meeting every nine days. I don't think these board of directors, the individuals meet every nine days. If you want to increase it now to the \$3,600, that comes down to 50 meetings a year, which would be, they'd be meeting every week that a board member would be meeting on the NRD boards. I don't think those board...NRD boards meet that often. I don't know why we would be trying to raise that there, when...I just feel that this is unrealistic. But when you raise it up to that, you know, somebody will say, well, let's have a meeting. And they meet for an hour in the morning, and then go on, and respectfully put in the...submit the bill for \$70 for that meeting. I don't agree with that. I absolutely don't agree with that part of it. So I think the way we've got it right now, in my opinion, is sufficient. You know, maybe there are some NRDs that, you know, meet a lot more. But you know, meeting once every nine days throughout the year is sufficient, I think, because I...it's not a full-time job. So those are the comments that I have. And I'm really concerned about, you know, raising it to the \$3,600. It comes off of my NRD taxes that are assessed to my property. And I just don't realistically think that there is a need to go to the \$3,600, or allowing them to meet once a week for NRD purposes, and meeting for the whole day. So with that, those are my comments, and I'll return the balance of my time to the Chair.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 1, 2005 LB 32, 160, 211, 273, 287, 321, 373, 473
 474, 475, 512, 566, 645, 675, 682, 683

SENATOR CUDABACK: Thank you, Senator Stuthman. Senator Langemeier.

SENATOR LANGEMEIER: Mr. President, members of the body, as a former NRD member coming into the Legislature prior to today, on many occasions, as you were, and I was, as treasurer on the executive committee, on a committee--I happened to be on projects committee--and then with a board meeting, if you take the \$2,800--I'm going to help Senator Stuthman on the math--the \$2,800 divided by the \$70 at 12 months is three meetings a month. And what happens to our district in LB 962 has no relevance to the NRD district I came off of. But what happens is, is you go to an executive meeting one day, a projects meeting another day, your regular board meeting, you end up with that. I was also the NARD director for our Lower Platte North NRD. It's very easy to hit the cap, especially the chairman, who attends multiple meetings. And so this is a very small amount of your board members ever come close to the cap. And also, in our board, we did not choose to go to the \$75, because we didn't think it was justified. We're at \$50. I know some are clear down to \$30. But you do have one or two individuals that are active and very into the system as far as trying to make a change or a difference that is very active. So I think the cap raising is very important for those people. And return the rest of my time back to the Chair. Thank you.

SENATOR CUDABACK: Thank you, Senator Langemeier. Mr. Clerk.

CLERK: Mr. President, items. Your Committee on Government, chaired by Senator Schimek, reports LB 321 to General File; likewise LB 474, LB 475, and LB 566. Government Committee also reports LB 160 to General File with committee amendments; LB 273, LB 373, LB 473, LB 682, LB 683. And LB 512 is reported indefinitely postponed. Confirmation report from Government Committee. Priority bill designation: Senator Langemeier, LB 675 is his personal priority bill. And Transportation Committee selected LB 645 as one of the committee priority bills. Motions and amendments to be printed: LB 287, Senator Chambers; Senator Don Pederson to LB 211. And I have a series of adds, Mr. President: Senator Burling would like to add his

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

March 1, 2005 LB 70, 731

name to LB 70; Senator Redfield, Schrock, Connealy, McDonald, Combs, all to LB 70; and Senator Burling to LB 731. (Legislative Journal pages 653-662.)

Priority motion, Mr. President: Senator Synowiecki would move to adjourn until Wednesday morning, March 2, at 9:00 a.m.

SENATOR CUDABACK: You've heard the motion to adjourn until March 2, 9:00 a.m. All in favor of the motion say aye. Opposed to the motion, nay. We are adjourned till tomorrow morning at 9:00 a.m.

Proofed by: AEG